

09:26AM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LVJ)

v.

August 27, 2024

JOSEPH BONGIOVANNI,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF LOUIS SELVA - DAY 1
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre, 138 Delaware Avenue
Buffalo, New York 14202
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.
80 East Spring Street
Williamsville, New York 14221
And

LAW OFFICES OF PARKER ROY MacKAY
BY: PARKER ROY MacKAY, ESQ.
3110 Delaware Avenue
Kenmore, New York 14217
And

OSBORN, REED & BURKE, LLP
BY: JOHN J. GILSENAN, ESQ.
120 Allens Creek Road
Rochester, New York 14618
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

1 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

2 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**
3 Robert H. Jackson Federal Courthouse
4 2 Niagara Square
Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

* * * * *

8 (Excerpt commenced at 2:20 p.m.)

9 (Jury is present.)

10 **THE COURT:** Okay. The government can call its next
11 witness.

12 | MR. TRIPI: The government calls Lou Selva,

13 | Your Honor.

14
15 **L O U I S S E L V A,** having been duly called and sworn,
16 testified as follows:

17 | P a g e **MR. TRIPPI:** May I inquire, Your Honor?

18 THE COURT: You may.

19 | MR. TRIPPI: Thank you, Your Honor.

21 DIRECT EXAMINATION BY MR. TRIPPI:

22 Q. Good afternoon, Mr. Selva.

23 A. Good afternoon.

24 Q. I'm just going to ask you to keep your voice up just to
25 make sure everybody can hear you today, okay?

02:22PM 1 A. Okay.

02:22PM 2 Q. Mr. Selva, how old are you, sir?

02:22PM 3 A. 59.

02:22PM 4 Q. Where did you grow up?

02:22PM 5 A. In Buffalo, North Buffalo.

02:22PM 6 Q. Spend most of your life there?

02:22PM 7 A. Yes.

02:22PM 8 Q. Do you know Joseph Bongiovanni?

02:22PM 9 A. Yes.

02:22PM 10 Q. How do you know him?

02:22PM 11 A. We had grown up together.

02:22PM 12 Q. Do you see him in court?

02:22PM 13 A. Yes.

02:22PM 14 Q. Can you please point to him and describe something he's

02:22PM 15 wearing?

02:22PM 16 A. He's wearing a suit and a tie.

02:22PM 17 Q. What color tie?

02:22PM 18 A. Different color blue and brown.

02:22PM 19 Q. There's three people with ties, so I just want to?

02:22PM 20 A. I'm sorry, the gentleman in the middle.

02:22PM 21 **MR. TRIPI:** Your Honor, may the record reflect the

02:22PM 22 witness has identified the defendant.

02:22PM 23 **THE COURT:** It does.

02:22PM 24 **BY MR. TRIPI:**

02:22PM 25 Q. How long have you known him?

02:22PM 1 A. Since sixth grade.

02:22PM 2 Q. Go to grammar school together?

02:22PM 3 A. Yes.

02:22PM 4 Q. Would you characterize yourself and him as your best

02:23PM 5 friend and you as his best friend?

02:23PM 6 A. Yes.

02:23PM 7 Q. What did he do for a living for most of the your adult

02:23PM 8 life?

02:23PM 9 A. He was a DEA agent.

02:23PM 10 Q. Here in Buffalo?

02:23PM 11 A. Here in Buffalo, and in Florida.

02:23PM 12 Q. How far have you gone in school, Mr. Selva?

02:23PM 13 A. Three years of college. I have not graduated.

02:23PM 14 Q. Now you mentioned you met the defendant in grammar

02:23PM 15 school. What grammar school was that?

02:23PM 16 A. PS Number 81.

02:23PM 17 Q. Is that in North Buffalo, New York?

02:23PM 18 A. Yes.

02:23PM 19 Q. Did you go to high school with the defendant?

02:23PM 20 A. Yes.

02:23PM 21 Q. What high schools did you attend that you went to with

02:23PM 22 the defendant?

02:23PM 23 A. There were a few.

02:23PM 24 Q. Go ahead, name them.

02:23PM 25 A. Saint Joe's Collegiate Institute, Canisius, and then

02:23PM 1 Cardinal O'Hara.

02:23PM 2 Q. Ultimately did you graduate from Bennett High School?

02:23PM 3 A. Yes.

02:23PM 4 Q. What year was that?

02:23PM 5 A. 1982.

02:23PM 6 Q. And the defendant graduated from what high school?

02:24PM 7 A. O'Hara.

02:24PM 8 Q. So you went to school together for all four years or how

02:24PM 9 did that work?

02:24PM 10 A. The last half, I had went to Bennett, so up until then,

02:24PM 11 yes. So --

02:24PM 12 Q. Last half of your senior year?

02:24PM 13 A. My senior year, correct.

02:24PM 14 Q. You transferred?

02:24PM 15 A. Yes.

02:24PM 16 Q. Did he go to Saint Joe's with you as freshmen?

02:24PM 17 A. Yes.

02:24PM 18 Q. Did he go to Canisius with you as sophomores?

02:24PM 19 A. Yes.

02:24PM 20 Q. Junior year, you both went to O'Hara together?

02:24PM 21 A. Yes.

02:24PM 22 Q. Okay. After graduating high school, did you spend some

02:24PM 23 time in the Air Force?

02:24PM 24 A. I did.

02:24PM 25 Q. About how long?

02:24PM 1 A. Six months.

02:24PM 2 Q. And after that, did you separate from the Air Force?

02:24PM 3 A. I was released with the general -- general release. And
02:24PM 4 then I came back to Buffalo, yes.

02:24PM 5 Q. After you came back to Buffalo, is that around 1983, 1984
02:24PM 6 are we talking about?

02:24PM 7 A. '83, yes.

02:25PM 8 Q. Where did you go to school?

02:25PM 9 A. I enrolled at Buff State. I was taking classes there.

02:25PM 10 Q. Did you go there for a year or two, how long?

02:25PM 11 A. Two years. Taking two classes, three classes, just
02:25PM 12 trying to get matriculated.

02:25PM 13 Q. After that, where did you go?

02:25PM 14 A. Then in '84, I moved out to Arizona and I went to Mesa
02:25PM 15 Junior College for two years.

02:25PM 16 Q. After that, you came back to the Buffalo area?

02:25PM 17 A. Yes.

02:25PM 18 Q. All right. Does that conclude your education, Mesa
02:25PM 19 Community College, your formal education?

02:25PM 20 A. Yes, roughly about three years all together with Buff
02:25PM 21 State.

02:25PM 22 Q. What types of jobs have you held in your adult life?

02:25PM 23 A. Sales and bartending.

02:25PM 24 Q. Okay. For a period of time, right before your
02:25PM 25 involvement in this case -- well, withdrawn.

02:25PM 1 There was a search warrant in your -- at your house
02:26PM 2 August 23rd, 2019; is that right?

02:26PM 3 A. Correct.

02:26PM 4 Q. That related to your conduct in this matter?

02:26PM 5 A. Yes.

02:26PM 6 Q. By that point in time, what were you -- what was your
02:26PM 7 job?

02:26PM 8 A. I was a deputy with the Erie County Sheriff's Holding
02:26PM 9 Center.

02:26PM 10 Q. How long had you been doing that job?

02:26PM 11 A. Just about six months.

02:26PM 12 Q. Okay. Up until that point in your life, most of your
02:26PM 13 jobs have been in the bartending and sales fields?

02:26PM 14 A. Correct.

02:26PM 15 Q. I'd like to stick with that Erie County Sheriff's job
02:26PM 16 just for a minute. That's a job that you acquired later in
02:26PM 17 life; is that right?

02:26PM 18 A. Later in life, yes.

02:26PM 19 Q. How old were you when you got the job?

02:26PM 20 A. 52.

02:26PM 21 Q. How old are you now?

02:26PM 22 A. 59.

02:26PM 23 Q. When you were applying to get that job at the Erie County
02:27PM 24 Sheriff's Office, that was to work as a jail deputy?

02:27PM 25 A. Correct. In the jail, correct.

02:27PM 1 Q. Did you have to supply a list of references in
02:27PM 2 conjunction with your application in that -- in that -- for
02:27PM 3 that job?

02:27PM 4 A. I did.

02:27PM 5 Q. Did you list the defendant as one of your character
02:27PM 6 references --

02:27PM 7 A. Yes.

02:27PM 8 Q. -- on your application?

02:27PM 9 A. Yes.

02:27PM 10 Q. Showing you Government Exhibit 215. Handing that up to
02:27PM 11 you. Do you recognize that?

02:27PM 12 A. I do.

02:27PM 13 Q. What do you recognize that to be?

02:27PM 14 A. Those are my references for the application for the
02:27PM 15 sheriff's.

02:27PM 16 Q. Is that a fair and accurate excerpt of your application
02:27PM 17 packet where you listed your character references when you
02:27PM 18 were applying to be an Erie County Sheriff's officer?

02:27PM 19 A. It is.

02:27PM 20 **MR. TRIPI:** The government offers Exhibit 215,
02:27PM 21 Your Honor.

02:27PM 22 **MR. SINGER:** No objection.

02:27PM 23 **THE COURT:** Received without objection.

02:27PM 24 **(GOV Exhibit 215 was received in evidence.)**

02:27PM 25 **MR. TRIPI:** Ms. Champoux, can we publish that,

02:28PM 1 please.

02:28PM 2 Can we highlight or zoom in on paragraph 43 at the
02:28PM 3 bottom of the page.

02:28PM 4 **THE WITNESS:** Okay.

02:28PM 5 **BY MR. TRIPI:**

02:28PM 6 Q. Can you read that there on your screen?

02:28PM 7 A. Yes.

02:28PM 8 Q. So you listed three references; is that right?

02:28PM 9 A. Correct.

02:28PM 10 Q. Who is the -- who filled this out?

02:28PM 11 A. I did.

02:28PM 12 Q. Who is the number 1 reference on your list there?

02:28PM 13 A. Joseph Bongiovanni.

02:28PM 14 Q. And did you fill in what his occupation was?

02:28PM 15 A. Yes.

02:28PM 16 Q. What did you write?

02:28PM 17 A. Special agent, Drug Enforcement Agency.

02:28PM 18 Q. And did you list how long you had known him?

02:28PM 19 A. Yes.

02:28PM 20 Q. And what did you write?

02:28PM 21 A. 45 years.

02:28PM 22 **MR. TRIPI:** Okay. We can take that down.

02:28PM 23 **BY MR. TRIPI:**

02:28PM 24 Q. When you took that position, was he there when you
02:28PM 25 graduated?

02:28PM 1 A. Yes.

02:28PM 2 Q. So there's an application and then there's a training
02:29PM 3 period and then you graduate to the job as a sheriff's
02:29PM 4 deputy; is that correct?

02:29PM 5 A. That's correct.

02:29PM 6 Q. I'm going to show you Government Exhibit 109AA for the
02:29PM 7 record. Do you recognize Government Exhibit 109AA?

02:29PM 8 A. Yes.

02:29PM 9 Q. What is --

02:29PM 10 A. Yes, I'm sorry.

02:29PM 11 Q. What do you recognize that to be?

02:29PM 12 A. That's the graduation from the Erie County Sheriff's
02:29PM 13 Academy.

02:29PM 14 Q. And does that fairly and accurately depict a photo that
02:29PM 15 you were in with the defendant and someone else when you
02:29PM 16 graduated?

02:29PM 17 A. Yes.

02:29PM 18 Q. And you were ascending to your job as a sheriff deputy?

02:29PM 19 A. Yes.

02:29PM 20 **MR. TRIPI:** The government offers Exhibit 109AA,
02:29PM 21 Your Honor.

02:29PM 22 **MR. SINGER:** No objection.

02:29PM 23 **THE COURT:** Received without objection.

02:29PM 24 **(GOV Exhibit 109AA was received in evidence.)**

02:29PM 25 **MR. SINGER:** No, no. Yes, Judge, no.

02:29PM 1 **MR. TRIPI:** Ms. Champoux, may we please publish that.

02:29PM 2 **BY MR. TRIPI:**

02:29PM 3 Q. And can you tell the jury what they're looking at in this

02:29PM 4 photo?

02:29PM 5 A. That's a picture of graduation from the Erie County

02:30PM 6 Sheriff's. Myself in the middle, the defendant on the left,

02:30PM 7 and then another friend of ours, Victor Sorrento, on the

02:30PM 8 right. My right.

02:30PM 9 **MR. TRIPI:** All right. We can take that down,

02:30PM 10 Ms. Champoux.

02:30PM 11 **BY MR. TRIPI:**

02:30PM 12 Q. Now, have you ever been a character reference for this

02:30PM 13 defendant?

02:30PM 14 A. I believe so. Yes.

02:30PM 15 Q. Were you a character reference for him when he applied

02:30PM 16 for a pistol permit?

02:30PM 17 A. For a pistol permit, yes.

02:30PM 18 Q. I'm going to show you what's been marked as Government

02:30PM 19 Exhibit 143A-1; do you recognize that?

02:30PM 20 A. Yes.

02:30PM 21 Q. What do you recognize that to be?

02:30PM 22 A. It's a character reference with my name on it.

02:31PM 23 Q. And who were you being a character reference for?

02:31PM 24 A. For the defendant, for Mr. Bongiovanni.

02:31PM 25 Q. Did that relate to his pistol permit?

02:31PM 1 A. Yes.

02:31PM 2 Q. Is that a fair and accurate excerpt of his pistol permit
02:31PM 3 with you as a character reference?

02:31PM 4 A. Yes.

02:31PM 5 Q. And do you recognize your signature there?

02:31PM 6 A. Yes.

02:31PM 7 **MR. TRIPI:** The government offers Exhibit 143A-1.

02:31PM 8 **MR. SINGER:** No objection.

02:31PM 9 **THE COURT:** Received without objection.

02:31PM 10 **(GOV Exhibit 143A-1 was received in evidence.)**

02:31PM 11 **MR. TRIPI:** If we can please publish that,

02:31PM 12 Ms. Champoux.

02:31PM 13 Ms. Champoux, could we zoom in just on the top
02:31PM 14 portion where it says applicants's name all the way across.

02:31PM 15 **BY MR. TRIPI:**

02:31PM 16 Q. Mr. Selva, can you see that there?

02:31PM 17 A. Yes.

02:31PM 18 Q. At the time, did Mr. Bongiovanni live at 221 Lovering
02:31PM 19 Buffalo, New York?

02:31PM 20 A. Yes.

02:31PM 21 Q. Is that the home that you associated with him growing up
02:31PM 22 in North Buffalo?

02:31PM 23 A. Yes.

02:32PM 24 **MR. TRIPI:** Okay. Can we zoom out of that
02:32PM 25 Ms. Champoux. And can we highlight or zoom in on the middle

02:32PM 1 section there.

02:32PM 2 **BY MR. TRIPI:**

02:32PM 3 Q. And Mr. Selva, is that your name, your address, and your
02:32PM 4 signature and all your identifiers in terms of your date of
02:32PM 5 birth and phone numbers that you had at the time?

02:32PM 6 A. Yes, it is.

02:32PM 7 Q. And essentially, by being a character reference, you were
02:32PM 8 vouching for the defendant's character in the event that you
02:32PM 9 were asked questions about him in connection with the pistol
02:32PM 10 permit; is that right?

02:32PM 11 A. Correct.

02:32PM 12 **MR. TRIPI:** We can take that down, Ms. Champoux.

02:32PM 13 **BY MR. TRIPI:**

02:32PM 14 Q. Now Mr. Selva, are you here under the terms of a
02:32PM 15 cooperation agreement with the United States Attorney's
02:32PM 16 Office?

02:32PM 17 A. Proffer agreement, yes.

02:32PM 18 Q. It's actually a cooperation agreement; is that right?

02:32PM 19 A. Yes.

02:32PM 20 Q. You've also signed a proffer agreement --

02:32PM 21 A. Yes.

02:32PM 22 Q. -- prior to the cooperation agreement?

02:32PM 23 A. Correct, I'm sorry.

02:32PM 24 Q. That's okay. Who was your cooperation agreement between?

02:33PM 25 A. Myself and the U.S. Attorney.

02:33PM 1 Q. Now, let's talk about the things that happened prior to
02:33PM 2 you getting to the point where you signed a cooperation
02:33PM 3 agreement, just generally, okay?

02:33PM 4 Did HSI execute a search warrant at your house
02:33PM 5 August 23rd, 2019?

02:33PM 6 A. They did.

02:33PM 7 Q. After that, did you resign your position as an Erie
02:33PM 8 County sheriff deputy?

02:33PM 9 A. I did.

02:33PM 10 Q. After that, did you meet with members of law enforcement
02:33PM 11 and give several interviews?

02:33PM 12 A. Yes.

02:33PM 13 Q. Now, initially, from the time investigators went to your
02:33PM 14 house through your first couple of interviews with
02:33PM 15 investigators, were you completely candid and truthful in all
02:33PM 16 respects?

02:33PM 17 A. No.

02:33PM 18 Q. Did you withhold some information?

02:33PM 19 A. Yes.

02:33PM 20 Q. Generally, what type of information did you withhold?

02:33PM 21 A. Specifics. You know, questions that were asked, I wasn't
02:34PM 22 being truthful about. I was torn.

02:34PM 23 Q. Were you protecting somebody?

02:34PM 24 A. Yes.

02:34PM 25 Q. Who were you protecting?

02:34PM 1 A. The parties that were involved with me.

02:34PM 2 Q. Who were -- who were those parties?

02:34PM 3 A. Mike Masecchia, the defendant, Ron Serio.

02:34PM 4 Q. This defendant here?

02:34PM 5 A. Yes.

02:34PM 6 Q. Eventually, were you asked to take a polygraph?

02:34PM 7 A. Yes.

02:34PM 8 Q. After you took that polygraph, did you disclose more

02:34PM 9 information?

02:34PM 10 A. I did.

02:34PM 11 Q. During each interview, were you asked more and more
02:35PM 12 questions?

02:35PM 13 A. Yes.

02:35PM 14 Q. During each interview, did you provide a little more
02:35PM 15 information each time?

02:35PM 16 A. Yes.

02:35PM 17 Q. When you were in those initial interviews, was your
02:35PM 18 friendship weighing on your mind?

02:35PM 19 A. Yes.

02:35PM 20 Q. Describe that for the jury. Explain to them what was
02:35PM 21 going through your mind when you were withholding
02:35PM 22 information, please.

02:35PM 23 A. I was torn, I mean, lifelong friendships. I'm put in a
02:35PM 24 position that was uncompromising and, I made a decision to go
02:35PM 25 forward.

02:35PM 1 Q. Were you -- were you concerned about other people viewing
02:35PM 2 you as -- as -- as a snitch or a rat?

02:35PM 3 A. Yes.

02:35PM 4 Q. Generally, explain that for the jury, why was that on
02:36PM 5 your mind?

02:36PM 6 A. In our area of the city in North Buffalo, West Side, that
02:36PM 7 area, it's not a good label to have. And I'd have to be
02:36PM 8 looking over my shoulder, so to speak. Nervous.

02:36PM 9 Q. Ultimately, did you move forward and testify before a
02:36PM 10 federal grand jury?

02:36PM 11 A. Yes.

02:36PM 12 Q. Was that on or about October 3rd, 2019?

02:36PM 13 A. It was.

02:36PM 14 Q. After that on May 14th, 2020, did you ultimately enter
02:36PM 15 your cooperation agreement?

02:36PM 16 A. Yes.

02:36PM 17 Q. So you did some things and gave interviews and testimony
02:36PM 18 before you reached an agreement; is that right?

02:36PM 19 A. Correct.

02:36PM 20 Q. What's the main thing that that cooperation agreement
02:36PM 21 requires of you while you're sitting on that witness stand?

02:36PM 22 A. To tell the truth, to come forth, tell the truth.

02:37PM 23 Q. Are you going to tell this jury the truth today?

02:37PM 24 A. Yes.

02:37PM 25 Q. Were you engaged in criminal activity for years prior to

02:37PM 1 Homeland Security executing a search warrant at your house on
02:37PM 2 August 23rd, 2019?

02:37PM 3 A. Yes.

02:37PM 4 Q. What crimes were you involved in?

02:37PM 5 A. Cultivating and producing and distributing marijuana.

02:37PM 6 Q. Any other crimes?

02:37PM 7 A. Yes.

02:37PM 8 Q. What was that?

02:37PM 9 A. The bribing of a federal agent.

02:37PM 10 Q. Were you the principal negotiator with respect to bribe
02:37PM 11 payments between the people you were trafficking with and the
02:37PM 12 defendant?

02:37PM 13 A. Yes.

02:37PM 14 Q. Who was that federal agent you negotiated bribes with?

02:37PM 15 A. The defendant, Mr. Bongiovanni.

02:37PM 16 Q. Who were the principal people you mentioned a moment ago,
02:37PM 17 three names: Serio, this defendant, and Masecchia. Were
02:38PM 18 those the principal people you were involve in in this
02:38PM 19 activity with?

02:38PM 20 A. Yes.

02:38PM 21 Q. Are you happy to be sitting here testifying against your
02:38PM 22 best friend?

02:38PM 23 A. No.

02:38PM 24 Q. Who put you in the position that you're in?

02:38PM 25 A. Myself.

02:38PM 1 Q. Through decisions you made?

02:38PM 2 A. Yes.

02:38PM 3 Q. Through conduct you engaged in?

02:38PM 4 A. Yes.

02:38PM 5 Q. In addition to the defendant, were you also good friends

02:38PM 6 with Mike Masecchia?

02:38PM 7 A. Yes.

02:38PM 8 Q. Did you know him going back to your childhood?

02:38PM 9 A. I did.

02:38PM 10 Q. Did you go to high school with him as well?

02:38PM 11 A. Yes. He was a little bit younger, but yes.

02:38PM 12 Q. A couple years younger?

02:38PM 13 A. A couple years behind.

02:38PM 14 Q. What high school did they go to with you?

02:38PM 15 A. Cardinal O'Hara and then he was at Bennett as well.

02:39PM 16 Q. Did Masecchia and the defendant go to college together?

02:39PM 17 A. Yes.

02:39PM 18 Q. Where did they go to college together?

02:39PM 19 A. U.B., University of Buffalo.

02:39PM 20 Q. Did they go to high school together?

02:39PM 21 A. Together, but they were there at same time, yes, but

02:39PM 22 different --

02:39PM 23 Q. Same high school?

02:39PM 24 A. Same high school, yes.

02:39PM 25 Q. Cardinal O'Hara?

02:39PM 1 A. Yes.

02:39PM 2 Q. Were the defendant and Masecchia close based upon your
02:39PM 3 observations and growing up with both of them?

02:39PM 4 A. Yes. We were all close.

02:39PM 5 Q. I'm going to show you Government Exhibit 222J. Do you
02:39PM 6 recognize Exhibit 222J?

02:39PM 7 A. Yes.

02:39PM 8 Q. What do you recognize that to be?

02:39PM 9 A. It's a picture of myself, Mike Masecchia -- excuse me,
02:39PM 10 Mike Masecchia and Sal Volpe.

02:39PM 11 Q. Where is that picture from?

02:39PM 12 A. That's in Florida.

02:40PM 13 Q. So the three of you were in Florida together?

02:40PM 14 A. Yes.

02:40PM 15 Q. Does it fairly and accurately depict you, Mike Masecchia,
02:40PM 16 and Sal Volpe together on a trip to Florida?

02:40PM 17 A. Yes.

02:40PM 18 **MR. TRIPI:** Rob, do you need to see this one?

02:40PM 19 **MR. SINGER:** No.

02:40PM 20 **MR. TRIPI:** The government offers Government
02:40PM 21 Exhibit 222J, Your Honor.

02:40PM 22 **MR. SINGER:** No objection.

02:40PM 23 **THE COURT:** Received without objection.

02:40PM 24 **(GOV Exhibit 222J was received in evidence.)**

02:40PM 25 **MR. TRIPI:** If we can publish that, please.

02:40PM 1 Thank you, Your Honor.
02:40PM 2 Could we publish that, please, Ms. Champoux.

02:40PM 3 **BY MR. TRIPI:**

02:40PM 4 Q. Now Mr. Selva, where are you in the photo?
02:40PM 5 A. I'm on the far right.
02:40PM 6 Q. Okay. And who is in the middle there?
02:40PM 7 A. Mike Masecchia.
02:40PM 8 Q. And who's on the far left of the photo?
02:40PM 9 A. Sal Volpe.
02:40PM 10 Q. And I'm going to get into more detail in a little bit
02:40PM 11 about Mr. Masecchia and Mr. Volpe, but were those both
02:40PM 12 individuals who were involved in marijuana trafficking with
02:41PM 13 you?

02:41PM 14 A. Yes.

02:41PM 15 Q. Does the defendant also know Sal Volpe?

02:41PM 16 A. I believe so, yes.

02:41PM 17 Q. Where is Mr. Volpe from?

02:41PM 18 A. He's from North Buffalo. Linden Avenue.

02:41PM 19 Q. So let's get into that North Buffalo neighborhood and
02:41PM 20 growing up there.

02:41PM 21 **MR. TRIPI:** We can take that down, Ms. Champoux, a
02:41PM 22 little bit.

02:41PM 23 **BY MR. TRIPI:**

02:41PM 24 Q. I'd like to focus on your relationship
02:41PM 25 Mr. Bongiovanni.

02:41PM 1 I think you said in the beginning you first met him in
02:41PM 2 grammar school?

02:41PM 3 A. Yes.

02:41PM 4 Q. Where did you live in relation to one another when you
02:41PM 5 both went to public school, I think it was '81 you said?

02:41PM 6 A. We lived in the neighborhood, he lived on Lovering, we
02:41PM 7 lived on Commonwealth and then we moved to Tennyson.

02:41PM 8 Q. "We" meaning your family?

02:41PM 9 A. My family.

02:41PM 10 Q. Are those streets in North Buffalo just a few blocks from
02:41PM 11 one another?

02:41PM 12 A. They are, very close.

02:41PM 13 Q. Did the defendant live at that house, 221 Lovering, that
02:42PM 14 we saw on his pistol permit application?

02:42PM 15 A. Yes.

02:42PM 16 Q. Who did he live there with?

02:42PM 17 A. His family.

02:42PM 18 Q. Which consisted of who?

02:42PM 19 A. His mother, his father, and his two sisters.

02:42PM 20 Q. What was his mom's name?

02:42PM 21 A. Maria.

02:42PM 22 Q. His father's name?

02:42PM 23 A. Fred.

02:42PM 24 Q. What his sister's names?

02:42PM 25 A. Marla and Lisa.

02:42PM 1 Q. Growing up together, going to school and then living
02:42PM 2 together in the neighborhood, did you see each other almost
02:42PM 3 every day?

02:42PM 4 A. Quite a bit, yes.

02:42PM 5 Q. Is that neighborhood that you grew up in the defendant a
02:42PM 6 predominantly Italian neighborhood?

02:42PM 7 A. At that time, yes.

02:42PM 8 Q. Were your friends predominantly Italian?

02:42PM 9 A. Yes.

02:42PM 10 Q. Were his friends that were common friends of yours
02:42PM 11 predominantly Italian?

02:42PM 12 A. Yes.

02:42PM 13 Q. Did you and the defendant have many friends in common?

02:42PM 14 A. Yes.

02:42PM 15 Q. Was Mike Masecchia one of those people?

02:43PM 16 A. Yes.

02:43PM 17 Q. Now, as you got to sort of the end of high school and
02:43PM 18 beyond that period of your life, were there other friends
02:43PM 19 that you had from the neighborhood, North Buffalo, or the
02:43PM 20 West Side of Buffalo, that were also friendly with the
02:43PM 21 defendant?

02:43PM 22 A. Yes.

02:43PM 23 Q. Did you both know an individual named Wayne Anderson?

02:43PM 24 A. Yes.

02:43PM 25 Q. How did you and the defendant know Wayne Anderson?

02:43PM 1 A. From the neighborhood growing up. Wayne was within our
02:43PM 2 age bracket. So we just knew him from growing up from
02:43PM 3 around.

02:43PM 4 Q. What types of things did you and the defendant do with
02:43PM 5 Wayne Anderson?

02:43PM 6 A. If we saw him out at a bar, we saw him at the beach, it
02:43PM 7 was a different time back then. Be friendly with him, say
02:44PM 8 hello, hang out.

02:44PM 9 Q. You hung out at the beach together in the summertime?

02:44PM 10 A. Yes.

02:44PM 11 Q. Did Wayne Anderson have a nickname growing up?

02:44PM 12 A. Not that I remember.

02:44PM 13 Q. Okay.

02:44PM 14 A. No.

02:44PM 15 Q. Is Wayne Anderson friends with Mike Masecchia?

02:44PM 16 A. Yes.

02:44PM 17 Q. Were you friends with a person named Joe Tomasello
02:44PM 18 growing up?

02:44PM 19 A. Yes.

02:44PM 20 Q. Is that someone the defendant was -- also knew and was
02:44PM 21 friends with?

02:44PM 22 A. Yes.

02:44PM 23 Q. Were you friends with a person named Sal Lima?

02:44PM 24 A. Yes.

02:44PM 25 Q. How did you know him?

02:44PM 1 A. Through Masecchia.

02:44PM 2 Q. Did the defendant know Sal Lima?

02:44PM 3 A. I don't believe so.

02:44PM 4 Q. Were you friends with an individual named Dave Hersey

02:44PM 5 growing up?

02:44PM 6 A. Yes.

02:44PM 7 Q. How did you know him?

02:44PM 8 A. The timeframe, again, through the -- it was early 20s,

02:44PM 9 from growing up going to the bars.

02:44PM 10 Q. Did the defendant know Dave Hersey?

02:44PM 11 A. Yes.

02:45PM 12 Q. Was Masecchia close with Hersey?

02:45PM 13 A. Yes.

02:45PM 14 Q. We've talked about Sal Volpe already, right?

02:45PM 15 He was in the picture?

02:45PM 16 A. Yes.

02:45PM 17 Q. How about John Suppa, do you know him?

02:45PM 18 A. I do.

02:45PM 19 Q. Who is he friends with?

02:45PM 20 A. John was a little older, but we were friends with his

02:45PM 21 brothers, Mark and Matty.

02:45PM 22 Q. When you say we, who -- who are you talking about?

02:45PM 23 A. The defendant, myself, all the folks you mentioned so

02:45PM 24 far, we all knew the Suppas.

02:45PM 25 Q. Was Masecchia friends with them?

02:45PM 1 A. Yes.

02:45PM 2 Q. Was the defendant friends with them?

02:45PM 3 A. Yes.

02:45PM 4 Q. Were you friends with them?

02:45PM 5 A. Yes.

02:45PM 6 Q. Along the way growing up in the neighborhood, did you get

02:45PM 7 to know an individual named Monty Massimi?

02:46PM 8 A. Yes.

02:45PM 9 Q. Monty Massimi?

02:46PM 10 A. Yes. Monty was from the West Side, he didn't grow up in

02:46PM 11 North Buffalo, but we knew him.

02:46PM 12 Q. For a period of time, was the West Side also

02:46PM 13 predominantly Italian neighborhood?

02:46PM 14 A. It was.

02:46PM 15 Q. Did the defendant know Monty Massimi?

02:46PM 16 A. Yes, yes.

02:46PM 17 Q. Did you know Monet Massimi?

02:46PM 18 A. Yes.

02:46PM 19 Q. Did the defendant also know Monet Massimi?

02:46PM 20 A. Yes.

02:46PM 21 Q. Did you know an individual named Anthony Anastasia?

02:46PM 22 A. Yes.

02:46PM 23 Q. How did you know him?

02:46PM 24 A. From going to Gables. Gables is a bar on Hertel. He had

02:46PM 25 worked there and knew a lot of -- we knew a lot of the same

02:46PM 1 friends.

02:46PM 2 Q. And Hertel is a street that runs in North Buffalo?

02:46PM 3 A. Hertel is in North Buffalo.

02:46PM 4 Q. Would that be like the main street in North Buffalo?

02:46PM 5 A. Yes.

02:46PM 6 Q. Gables was a bar on that street?

02:46PM 7 A. It was. It's since closed, yes.

02:46PM 8 Q. Is that a bar that the defendant would go to as well?

02:46PM 9 A. Yes.

02:46PM 10 Q. Did the defendant know Anthony Anastasia?

02:46PM 11 A. Yes.

02:46PM 12 Q. Did you know Steven Brucato?

02:47PM 13 A. Yes.

02:47PM 14 Q. How did you know him?

02:47PM 15 A. From growing up in North Buffalo and he also worked at
02:47PM 16 the bar.

02:47PM 17 Q. Same bar, Gables?

02:47PM 18 A. Gables. Yes.

02:47PM 19 Q. Did the defendant know Steven Brucato?

02:47PM 20 A. Yes.

02:47PM 21 Q. Is Gables a bar that you and the defendant would go to?

02:47PM 22 A. Yes. It was -- it was in the neighborhood.

02:47PM 23 Q. As you got into -- as you started to get a little older,
02:47PM 24 high school and beyond, in high school, did you start
02:47PM 25 using -- trying marijuana?

02:47PM 1 A. Yes.

02:47PM 2 Q. As you got a little older, did you progress to trying

02:47PM 3 cocaine?

02:47PM 4 A. Yes.

02:47PM 5 Q. About how old were you at that point?

02:47PM 6 A. With cocaine?

02:47PM 7 Q. Yeah.

02:47PM 8 A. Trying, like 20s. Early 20s.

02:47PM 9 Q. Did the cocaine come into the scene for you after you

02:47PM 10 started working in the bar scene?

02:47PM 11 A. Yes.

02:47PM 12 Q. Growing up, when you would engage in -- in

02:48PM 13 marijuana-related activity, did you -- did you sometimes do

02:48PM 14 that around and with Mike Masecchia?

02:48PM 15 A. The cocaine?

02:48PM 16 Q. Marijuana.

02:48PM 17 A. Yes, yes.

02:48PM 18 Q. How about the defendant?

02:48PM 19 A. Yes.

02:48PM 20 Q. As you got older into the -- in -- cocaine came into the

02:48PM 21 mix, did you ever use that around the defendant?

02:48PM 22 A. Yes.

02:48PM 23 Q. Did the defendant ever partake in that with you?

02:48PM 24 A. Yes.

02:48PM 25 Q. Now you -- you mentioned a moment ago that the defendant

02:48PM 1 was your best friend until this case pretty much, right?

02:48PM 2 A. Yes.

02:48PM 3 Q. Did you talk about a number of different things like
02:48PM 4 friends do growing up?

02:48PM 5 A. Yes.

02:48PM 6 Q. Did you spend time at the defendant's house growing up?

02:49PM 7 A. Yes.

02:49PM 8 Q. Did he spend time at your house?

02:49PM 9 A. Yes.

02:49PM 10 Q. Did he know members of your family?

02:49PM 11 A. Yes.

02:49PM 12 Q. You knew members of his family?

02:49PM 13 A. Yes.

02:49PM 14 Q. You knew a lot of the same people in the neighborhood?

02:49PM 15 A. Yes.

02:49PM 16 Q. Went to a lot of the same places?

02:49PM 17 A. Yes.

02:49PM 18 Q. Was there ever a time growing up, kind of high school

02:49PM 19 teenage years into your 20s and -- and beyond, where you and

02:49PM 20 the defendant had conversations about what we're referring to

02:49PM 21 at this trial as Italian Organized Crime or what you might

02:49PM 22 have heard of referenced as the La Cosa Nostra?

02:49PM 23 A. Conversations as far as you -- can you?

02:49PM 24 Q. Have you -- just generally about that topic?

02:49PM 25 A. Yes.

02:49PM 1 Q. You had discussions with this defendant?

02:49PM 2 A. Yes.

02:49PM 3 Q. How old were you and the defendant, approximately -- he's
02:49PM 4 about your age, right?

02:49PM 5 A. Yes.

02:49PM 6 Q. How old were you when that starts becoming a topic of

02:50PM 7 conversation that you and the defendant would talk about on
02:50PM 8 occasion?

02:50PM 9 A. Early 20s. We were getting older.

02:50PM 10 Q. Was that an area of interest for you?

02:50PM 11 A. Yes, meaning knowing about it. Yes.

02:50PM 12 Q. Did it appear to you based on your discussions with the
02:50PM 13 defendant that it was a topic of interest to him?

02:50PM 14 A. Yes.

02:50PM 15 Q. As you got into your 20s, did you start to see people in
02:50PM 16 the neighborhood that you perceived to be associated with
02:50PM 17 Organ -- Italian Organized Crime in North Buffalo?

02:50PM 18 A. Yes.

02:50PM 19 Q. Did you base your perceptions of those people based upon
02:50PM 20 conversations with friends?

02:50PM 21 A. Yes.

02:51PM 22 Q. Sometimes family?

02:51PM 23 A. Yes.

02:51PM 24 Q. Sometimes news reports?

02:51PM 25 A. Yes.

02:51PM 1 Q. Eventually even books?

02:51PM 2 A. Yes.

02:51PM 3 Q. Did you respect people you perceived to be connected to
02:51PM 4 Organ -- Italian Organized Crime?

02:51PM 5 A. Yes, I did.

02:51PM 6 Q. When you were present with the defendant, did you observe

02:51PM 7 him appear to show respect to individuals that you and he had
02:51PM 8 discussed as potentially being connected to Italian Organized

02:51PM 9 Crime?

02:51PM 10 A. If we were out and we ran into them, yes.

02:51PM 11 Q. What would you observe this defendant do interacting with
02:51PM 12 such persons?

02:51PM 13 A. Just a pleasantry, just hello, a handshake.

02:51PM 14 Q. When that topic would come up, how would the defendant
02:52PM 15 talk about people he -- he believed were connected?

02:52PM 16 A. Well, if we saw somebody -- or what -- I don't understand
02:52PM 17 the question. Meaning if it was a specific person?

02:52PM 18 Q. No. Just generally, when you would see people who fit
02:52PM 19 that description, how did the defendant discuss them
02:52PM 20 generally?

02:52PM 21 A. Conversation would come up that they're allegedly
02:52PM 22 connected to organized crime, they're allegedly made.

02:52PM 23 Q. Was he talking -- would the defendant talk about those
02:52PM 24 people in a respectful or disrespectful way?

02:52PM 25 A. No, in a respectful way.

02:52PM 1 Q. What was the defendant's demeanor around those types of
02:52PM 2 individuals?

02:52PM 3 A. Just friendly. Just cordial.

02:52PM 4 Q. Did it appear to you that it was important for the
02:52PM 5 defendant to know who people were as to whether they had some
02:53PM 6 perceived status in Italian Organized Crime?

02:53PM 7 **MR. SINGER:** Objection to the form.

02:53PM 8 **THE COURT:** Sustained to -- sustained to the form.

02:53PM 9 **BY MR. TRIPPI:**

02:53PM 10 Q. You observed the defendant around people that you both
02:53PM 11 believed were connected to Organized -- Italian Organized
02:53PM 12 Crime; is that correct?

02:53PM 13 A. Correct.

02:53PM 14 Q. Did you see how the defendant interacted with those
02:53PM 15 people?

02:53PM 16 A. Yes. Again, it would be just a hello, a handshake, an
02:53PM 17 exchange of pleasantries.

02:53PM 18 Q. Do you believe the defendant made a point to say hello to
02:53PM 19 those types of people?

02:53PM 20 **MR. SINGER:** Objection.

02:53PM 21 **THE COURT:** Sustained.

02:53PM 22 **THE WITNESS:** If it was unavoidable --

02:53PM 23 **MR. SINGER:** Objection.

02:53PM 24 **THE COURT:** Sustained, don't answer. When I say
02:53PM 25 "sustained," you don't answer.

02:53PM 1 **THE WITNESS:** I'm sorry.

02:53PM 2 **THE COURT:** No, that's okay.

02:53PM 3 **BY MR. TRIPI:**

02:54PM 4 Q. Do you believe the defendant -- based on your

02:54PM 5 observations of him, do you believe the defendant had an

02:54PM 6 interest in who people were?

02:54PM 7 A. General interest, yeah. I mean, if he knew him, he'd say

02:54PM 8 hello to be respectful.

02:54PM 9 Q. Growing up, did the defendant talk about his father's

02:54PM 10 friends who were connected to organized crime?

02:54PM 11 A. On occasion.

02:54PM 12 Q. Who did he -- who did the defendant indicate his father's

02:54PM 13 friends were that were connected to Italian Organized Crime?

02:54PM 14 A. Friends that he played cards with on Hertel.

02:54PM 15 Q. Did the defendant mention his father's friend, Tom

02:54PM 16 Chooch?

02:54PM 17 A. He was friends with him, yes.

02:54PM 18 Q. What did the defendant say about his father's

02:55PM 19 relationship?

02:55PM 20 A. They were friends and he knew him from The Club on Hertel

02:55PM 21 Avenue there was a club where they played cards.

02:55PM 22 Q. Did the defendant bring up the name Joe Rosato?

02:55PM 23 A. Yes, the defendant's father's friends with him as well.

02:55PM 24 Q. Did the defendant bring up the name John Catanzaro?

02:55PM 25 A. Yes.

02:55PM 1 Q. Did he bring up the name as someone who was friends with
02:55PM 2 his father?

02:55PM 3 A. Yes.

02:55PM 4 Q. How about a person named Gabby Cino?

02:55PM 5 **MR. SINGER:** Judge, he's asking Mr. Selva whether he
02:55PM 6 can name certain names and what he's able to repeat. Let's
02:55PM 7 not go through the name game. Why don't we ask the witness
02:55PM 8 what he knows. I object to this.

02:55PM 9 **MR. TRIPI:** I can ask certain names.

02:55PM 10 **THE COURT:** He can ask questions the way he wants as
02:55PM 11 long as he's not leading. He's not leading.

02:55PM 12 **MR. SINGER:** I believe it's leading, Judge.

02:55PM 13 **THE COURT:** No, he's not leading. Overruled.

02:55PM 14 **BY MR. TRIPI:**

02:55PM 15 Q. Did the defendant bring up the name Gabby Cino?

02:55PM 16 A. Yes, yes.

02:55PM 17 Q. What did he say about him?

02:55PM 18 A. He was a friend of his dad's from playing cards on Hertel
02:55PM 19 Avenue.

02:55PM 20 Q. Based upon your understanding in the neighborhood of Tom
02:55PM 21 Chooch, a/k/a Tom Machelli, Joe Rosato, John Catanzaro and
02:56PM 22 Gabby Cino, was it your belief that those individuals were
02:56PM 23 connected to Italian Organized Crime based on their
02:56PM 24 reputations in the neighborhood.

02:56PM 25 **MR. SINGER:** Judge, objection to this. We

02:56PM 1 established a timeframe. We started talking about
02:56PM 2 conversations that happened at what time --

02:56PM 3 **MR. TRIPI:** At any time. At any time. The timeframe
02:56PM 4 doesn't matter.

02:56PM 5 **MR. SINGER:** Can we approach?

02:56PM 6 **THE COURT:** Come on up.

02:56PM 7 (Sidebar discussion held on the record.)

02:56PM 8 **MR. SINGER:** The way the testimony came out, Judge,
02:56PM 9 was that Mr. Selva and Mr. Bongiovanni had conversations in
02:56PM 10 their 20s about some of the figures that we're talking about
02:56PM 11 in some ways. And then we jumped back to when they're
02:56PM 12 childhood people. I don't know if they're having
02:56PM 13 conversations at this point in time or whatnot, but there
02:56PM 14 hasn't been a foundation laid as to Mr. Selva's opinions.

02:56PM 15 And, more importantly, the foundation for his
02:56PM 16 reputation about opinions that he forms below his 20s, like,
02:57PM 17 so, for instance he might know certain things as an adult, but
02:57PM 18 to say that he might know those things as a child I think is
02:57PM 19 too much of a leap.

02:57PM 20 So I don't think we've really established a
02:57PM 21 foundation for how he knows the reputation in the community.
02:57PM 22 He's not hanging out with adults when he's a child. It
02:57PM 23 doesn't work that way.

02:57PM 24 **MR. TRIPI:** First, the question was framed high
02:57PM 25 school and beyond. As they got --

02:57PM 1 **THE COURT:** High school and beyond?

02:57PM 2 **MR. TRIPI:** -- as they got older, did you -- did you

02:57PM 3 discuss --

02:57PM 4 **THE COURT:** Okay.

02:57PM 5 **MR. TRIPI:** Yeah. Did you discuss certain people.

02:57PM 6 **THE COURT:** So we do have a timeframe?

02:57PM 7 **MR. TRIPI:** Yeah. So moving forward from there, did

02:57PM 8 you discuss certain people. And I established that Mr. Selva,

02:57PM 9 from growing up in the neighborhood, formed opinions about who

02:57PM 10 was and who wasn't based upon discussions with friends,

02:57PM 11 relatives, news articles, even books, so he has a basis to

02:57PM 12 make these opinions, the one I'm about to ask him, and --

02:57PM 13 **THE COURT:** So why -- so --

02:57PM 14 **MR. TRIPI:** -- and -- one more thing, Judge? I'm

02:57PM 15 sorry.

02:57PM 16 In the context of this particular question was, who

02:58PM 17 was your -- who was he discussing that was friends with his

02:58PM 18 father who were connected to organized crime, so that

02:58PM 19 particular -- the first question in the set linked it back to

02:58PM 20 that's the whole topic of conversation regarding these names.

02:58PM 21 **THE COURT:** So -- so why don't you make it a little

02:58PM 22 bit clearer the timeframes we're talking about, and I'll

02:58PM 23 overrule the objection.

02:58PM 24 **MR. TRIPI:** Okay.

02:58PM 25 **MR. SINGER:** Understood, Judge.

02:58PM 1 (End of sidebar discussion.)

02:58PM 2 **BY MR. TRIPPI:**

02:58PM 3 Q. Now, Mr. Selva, these questions I've been asking you
02:58PM 4 about, just to clarify, when you're talking about you know
02:58PM 5 who's connected to organized crime in the neighborhood,
02:58PM 6 you're having those discussions with the defendant, did you
02:58PM 7 say earlier that -- that those types of conversations started
02:58PM 8 to begin sort of towards the end of high school and into your
02:58PM 9 20s as you started to get older?

02:58PM 10 A. Yes --

02:58PM 11 Q. And --

02:58PM 12 A. -- as we got older.

02:58PM 13 Q. I'm sorry, I didn't mean to interrupt you.

02:58PM 14 Did those continue sporadically overtime into your adult
02:59PM 15 life with the defendant?

02:59PM 16 A. Yes. If -- if the topic came up, yes.

02:59PM 17 Q. Okay. And so now I'm asking you, I had gone through
02:59PM 18 several names that you had talked about, that the defendant
02:59PM 19 mentioned his father was friends with, Tom Machelli, Joe
02:59PM 20 Rosato, John Catanzaro, Gabby Cino; do you remember those
02:59PM 21 names?

02:59PM 22 A. Yes.

02:59PM 23 Q. Now I'm going to ask you based upon you growing up in
02:59PM 24 that neighborhood, did you have an opinion or were you aware
02:59PM 25 of their reputation in the neighborhood?

02:59PM 1 A. Yes.

02:59PM 2 Q. What was the reputation you were aware of, of those
02:59PM 3 names?

02:59PM 4 A. Allegedly, that from what you hear and like you mentioned
02:59PM 5 in book and on paper, that they were all connected.

02:59PM 6 Q. And when you say connected, do you mean to Italian
02:59PM 7 Organized Crime?

02:59PM 8 A. Yes.

02:59PM 9 Q. So those were names that were familiar to you in the
02:59PM 10 North Buffalo neighborhood you grew up in?

02:59PM 11 A. Yes.

02:59PM 12 Q. In the North Buffalo neighborhood you grew up in with the
03:00PM 13 defendant, were you also -- I think you referenced it vaguely
03:00PM 14 a moment ago, were you familiar with a location on Hertel
03:00PM 15 Avenue called 1234 Hertel?

03:00PM 16 A. Yes.

03:00PM 17 Q. What was that location called or known as in the
03:00PM 18 neighborhood?

03:00PM 19 A. The Club.

03:00PM 20 Q. Did you have an understanding of what occurred at that
03:00PM 21 location?

03:00PM 22 A. Yes.

03:00PM 23 Q. What was your understanding of what occurred at that
03:00PM 24 location?

03:00PM 25 **MR. SINGER:** Objection, lack of foundation. Hearsay.

03:00PM 1 Lack of personal knowledge.

03:00PM 2 **THE COURT:** You need to establish more of a
03:00PM 3 foundation, Mr. Tripi.

03:00PM 4 **BY MR. TRIPPI:**

03:00PM 5 Q. Well, have you talked about -- where was The Club on
03:00PM 6 Hertel?

03:00PM 7 A. It was on Hertel, right between Commonwealth and
03:00PM 8 Lovering.

03:00PM 9 Q. And you grew up on Commonwealth?

03:00PM 10 A. For a short time, then I moved to Tennyson, yes, so it
03:00PM 11 was in my neighborhood.

03:00PM 12 Q. And the defendant grew up on Lovering?

03:00PM 13 A. Yes.

03:00PM 14 Q. Have you talked about The Club, 1234 Hertel, with the
03:01PM 15 defendant?

03:01PM 16 A. Yes.

03:01PM 17 Q. Have you talked about it with other people in the
03:01PM 18 neighborhood growing up?

03:01PM 19 A. Yes.

03:01PM 20 Q. Have you made your own physical observations of people
03:01PM 21 coming and going from there?

03:01PM 22 A. Yes.

03:01PM 23 Q. Have you seen different cars coming and going from that
03:01PM 24 location?

03:01PM 25 A. Yes.

03:01PM 1 Q. Have -- as an adult later on, have you had occasion to go
03:01PM 2 there on two occasions yourself?

03:01PM 3 A. Yes.

03:01PM 4 Q. Okay. Based upon all of that, do you have an -- do you
03:01PM 5 have an understanding of what The Club was known as in the
03:01PM 6 neighborhood?

03:01PM 7 **MR. SINGER:** Objection, again, lack of foundation.

03:01PM 8 **THE COURT:** No. Overruled.

03:01PM 9 **THE WITNESS:** It was a place where they socialized
03:01PM 10 and they played cards, and they gathered.

03:01PM 11 **BY MR. TRIPPI:**

03:01PM 12 Q. Who is "they"?

03:01PM 13 A. The gentlemen that you were talking about.

03:01PM 14 Q. Are you referencing organized crime figures?

03:01PM 15 A. Yes.

03:01PM 16 Q. Have you seen the defendant's father, Fred Bongiovanni,
03:01PM 17 associate with The Club on Hertel Avenue?

03:02PM 18 A. I've driven by and seen his car. I never --

03:02PM 19 Q. Okay.

03:02PM 20 A. -- saw him in there personally.

03:02PM 21 Q. Did the defendant tell you about his father's presence at
03:02PM 22 The Club on Hertel Avenue?

03:02PM 23 A. Yes.

03:02PM 24 Q. What has the defendant said about his father's presence
03:02PM 25 going to The Club on Hertel Avenue?

03:02PM 1 A. His father frequented it regularly and he was a card
03:02PM 2 player, a Ziginette player.

03:02PM 3 Q. So we're talking about gambling?

03:02PM 4 A. Gambling.

03:02PM 5 Q. Did the defendant ever talk about family in Las Vegas
03:02PM 6 that -- that he had that was connected to organized crime?

03:02PM 7 A. Yes.

03:02PM 8 Q. Who did he mention?

03:02PM 9 A. He had an uncle out there.

03:02PM 10 Q. Uncle what?

03:02PM 11 A. I think they referred to him as Uncle Cheech.

03:02PM 12 Q. And what did the defendant tell you about Uncle Cheech in
03:03PM 13 Las Vegas?

03:03PM 14 A. Not much. He lived out there. He's been out there a
03:03PM 15 long time. And he hadn't seen him in a while.

03:03PM 16 Q. What, if anything, did he tell you about Uncle Cheech's
03:03PM 17 status as it related to Italian Organized Crime?

03:03PM 18 A. He thought that he was involved in it.

03:03PM 19 Q. Who thought Uncle Cheech was involved in organized crime?

03:03PM 20 A. The defendant.

03:03PM 21 Q. Do you or did you know a woman named Dana Panepinto?

03:03PM 22 A. Yes, sir.

03:03PM 23 Q. Who was that?

03:03PM 24 A. That was the defendant's girlfriend when we were younger.

03:03PM 25 Q. Approximately what age?

03:03PM 1 A. High school.

03:03PM 2 Q. What age?

03:03PM 3 A. High school, 16, 17, 18, 19.

03:03PM 4 Q. How long did he date her for?

03:03PM 5 A. Five years, maybe.

03:03PM 6 Q. Did the defendant tell you anything about Dana

03:04PM 7 Panepinto's father?

03:04PM 8 A. Yes.

03:04PM 9 Q. What did the defendant tell you about her father?

03:04PM 10 A. He was affiliated with the union. His nickname was

03:04PM 11 Turtle. And he was allegedly connected with organized crime.

03:04PM 12 Q. Based upon your discussions and observations, did the

03:04PM 13 defendant seem to respect Dana's father, Turtle Panepinto?

03:04PM 14 A. Yes.

03:04PM 15 Q. Are you familiar with the name Butchie Bifulco?

03:04PM 16 A. Yes.

03:04PM 17 Q. Based upon growing up in the neighborhood and all the

03:04PM 18 same sources of information we've been discussing, did

03:04PM 19 Butchie Bifulco have a reputation as it related to Italian

03:04PM 20 Organized Crime that you were aware of?

03:05PM 21 A. Yes.

03:05PM 22 Q. What was that reputation?

03:05PM 23 A. He was connected, he had worked with the union.

03:05PM 24 Q. When you say connected, are you talking about to Italian

03:05PM 25 Organized Crime?

03:05PM 1 A. Yes.

03:05PM 2 Q. Is this hard for you to say?

03:05PM 3 A. Yes.

03:05PM 4 Q. Okay. Is this an uncomfortable topic for you?

03:05PM 5 A. Yes.

03:05PM 6 Q. But you understand you've got to talk about it?

03:05PM 7 A. I understand, yes, sir.

03:05PM 8 Q. Okay. Did Masecchia have a relationship with Butchie

03:05PM 9 Bifulco?

03:05PM 10 A. He did.

03:05PM 11 Q. What was your understanding of Masecchia's relationship

03:05PM 12 with Butchie Bifulco?

03:05PM 13 A. Their fathers were very close. He was either Mike or his

03:05PM 14 brother's godfather. I'm not sure which one.

03:05PM 15 Q. Did the defendant know Butchie Bifulco?

03:05PM 16 A. Yes.

03:05PM 17 Q. Have you ever been in a social situation where you and

03:05PM 18 the defendant saw Butchie Bifulco out at a local -- he's

03:06PM 19 deceased now, right?

03:06PM 20 A. Yes.

03:06PM 21 Q. When he was alive, were you ever in a situation where you

03:06PM 22 were with the defendant and you both saw Butchie Bifulco out?

03:06PM 23 A. Yes.

03:06PM 24 Q. Did the defendant greet Butchie Bifulco?

03:06PM 25 A. Say hello.

03:06PM 1 Q. Did you greet him?
03:06PM 2 A. Yes.
03:06PM 3 Q. Did he know -- did Butchie know who you were?
03:06PM 4 A. Yes.
03:06PM 5 Q. Did Butchie know who the defendant was?
03:06PM 6 A. Yes.
03:06PM 7 Q. Did you and the defendant, this defendant, ever discuss
03:06PM 8 Mike Masecchia's connection to Butchie Bifulco?
03:06PM 9 A. Yes.
03:06PM 10 Q. Describe that conversation.
03:06PM 11 A. Well, we knew the relationship with his father and with
03:06PM 12 Mike's father and Butchie. And they were very close. So
03:06PM 13 there was speculation that Mike was possibly made with this
03:06PM 14 organization.
03:06PM 15 Q. When you had that discussion with the defendant, was this
03:07PM 16 before he was a DEA agent?
03:07PM 17 A. Yes.
03:07PM 18 Q. What's your approximate ages when you had that
03:07PM 19 discussion?
03:07PM 20 A. Like, through our life, late -- late 20s.
03:07PM 21 Q. So as of your late 20s, you and the defendant were
03:07PM 22 discussing whether Mike Masecchia was in the La Cosa Nostra;
03:07PM 23 is that right?
03:07PM 24 A. He was a rough guy, he was a tough guy, he had a
03:07PM 25 reputation, yes.

03:07PM 1 Q. My question is: As of your late 20s, were you and the
03:07PM 2 defendant discussing whether Mike Masecchia was in Italian
03:07PM 3 Organized Crime?

03:07PM 4 A. Yes, it was brought up.

03:07PM 5 Q. Fast forwarding, and I'll get into more detail later, but
03:08PM 6 later on, as time went on, did you, in fact, have a
03:08PM 7 discussion with Masecchia and confirm directly that he was a
03:08PM 8 member of Italian Organized Crime?

03:08PM 9 A. I did. I asked him. We were -- we had become close.
03:08PM 10 And I had been hearing things for a long time. And I just
03:08PM 11 asked the question.

03:08PM 12 Q. And what did Masecchia say?

03:08PM 13 A. He told me he was.

03:08PM 14 Q. Did you relay that information to the defendant?

03:08PM 15 A. Yes.

03:08PM 16 Q. What did the defendant say about that?

03:08PM 17 A. Didn't say much. I mean, it was kind of speculated all
03:08PM 18 along.

03:08PM 19 Q. What did the defendant say about it?

03:08PM 20 A. He -- he really didn't have a response. He said, okay.
03:08PM 21 I mean, I confirmed it, and I told him that he was.

03:08PM 22 Q. Did the defendant seem surprised?

03:08PM 23 A. No.

03:08PM 24 Q. Okay. I'm going to fast forward a bit past your 20s to
03:09PM 25 the point in time where the defendant's a DEA agent. Okay?

03:09PM 1 Just to you in a frame of reference?

03:09PM 2 A. Okay.

03:09PM 3 Q. Did the defendant once he was a DEA agent ever discuss
03:09PM 4 with you his views on marijuana and whether he thought he
03:09PM 5 should be enforcing marijuana laws?

03:09PM 6 A. Yes. He was a little liberal -- he was liberal.

03:09PM 7 Q. What did he say about it?

03:09PM 8 A. He felt it should be legal.

03:09PM 9 Q. Can you elaborate any more about what he said for this
03:09PM 10 jury so they understand the conversation you had with him?

03:09PM 11 A. We would discuss it, I would bring it up. I'd ask his
03:09PM 12 opinion about it, something that he didn't feel real strongly
03:09PM 13 about. He felt that it should be legal.

03:09PM 14 Q. Once he was a DEA agent, did he ever express to you why
03:09PM 15 he didn't use marijuana?

03:09PM 16 A. Yes. Because it stayed in his system for 30 days or
03:10PM 17 longer.

03:10PM 18 Q. Once the defendant was a DEA agent, in Buffalo, New York,
03:10PM 19 did you use cocaine with him on occasion?

03:10PM 20 A. Yes.

03:10PM 21 Q. Did you ever discuss with the defendant why he would use
03:10PM 22 cocaine on occasion as a DEA agent but not marijuana?

03:10PM 23 A. Cocaine stayed in your system.

03:10PM 24 Q. Is your answer to my question yes?

03:10PM 25 A. The answer is yes.

03:10PM 1 Q. What did the -- now I ask the next question. What did
03:10PM 2 the defendant say about that?

03:10PM 3 A. He said cocaine stayed in your system for a shorter
03:10PM 4 amount of time. It would be out of your system in 72 hours.
03:10PM 5 Drink fluid, work out, sweat, and it will pass through.

03:10PM 6 Q. So did the defendant -- did he discuss with you like a
03:11PM 7 strategy for not getting caught with cocaine in his system
03:11PM 8 that he would implement? Is that what you're saying?

03:11PM 9 A. Yes, if he did it, he would immediately sweat it out.

03:11PM 10 Q. How?

03:11PM 11 A. Drink fluids, work out, sauna, steam, whatever it took,
03:11PM 12 run. Get it out of your system.

03:11PM 13 Q. Now you spent some time in Las Vegas from about 1997 to
03:11PM 14 1999; is that about right?

03:11PM 15 A. Correct.

03:11PM 16 Q. By that point in time, were you married?

03:11PM 17 A. I was.

03:11PM 18 Q. Did you have any children?

03:11PM 19 A. I had two.

03:11PM 20 Q. By 1999, you came back to Buffalo?

03:11PM 21 A. Yes.

03:11PM 22 Q. Around that time, did you go through a divorce?

03:11PM 23 A. A little bit after that, yes.

03:11PM 24 Q. While you were in Las Vegas, was the defendant working
03:11PM 25 for the Erie County Sheriff's Office, the same department you

03:12PM 1 later worked for?

03:12PM 2 A. Yes.

03:12PM 3 Q. By the time you got back to Buffalo, was the defendant
03:12PM 4 moving on from that department and going into the DEA around
03:12PM 5 there time period?

03:12PM 6 A. Yes.

03:12PM 7 Q. As the defendant was working for the Sheriff's Office and
03:12PM 8 then applying to becoming a DEA agent, had he become married
03:12PM 9 by then?

03:12PM 10 A. Yes.

03:12PM 11 Q. What was his first wife's name?

03:12PM 12 A. JoAnn.

03:12PM 13 Q. Did he have a young child around that time?

03:12PM 14 A. He did, yes.

03:12PM 15 Q. What's his daughter's name?

03:12PM 16 A. He had a daughter, Chelsea.

03:12PM 17 Q. Do you know where the defendant's first job out of the
03:13PM 18 DEA Academy was?

03:13PM 19 A. I believe Florida. Orlando or Miami.

03:13PM 20 Q. Were you still in Las Vegas when he first went to
03:13PM 21 Florida?

03:13PM 22 A. Yes.

03:13PM 23 Q. Did you and the defendant keep in touch somewhat?

03:13PM 24 A. Sporadically.

03:13PM 25 Q. How would you keep in touch back in those days, late

03:13PM 1 '90s?

03:13PM 2 A. Back then, there was -- there were cell phones, but they
03:13PM 3 weren't as popular. Either called the home phone, or if you
03:13PM 4 had a wireless phone, the old analog phones.

03:13PM 5 Q. Do you recall the defendant coming back to Buffalo around
03:13PM 6 2001?

03:13PM 7 A. Yes.

03:13PM 8 Q. By that point, were you back in Buffalo?

03:13PM 9 A. I was.

03:13PM 10 Q. Where were you working?

03:13PM 11 A. I was working for Nextel. I was in the wireless
03:14PM 12 business, and I was also tending bar two nights a week.

03:14PM 13 Q. Where were you tending bar?

03:14PM 14 A. At that time, Harry's Harbor.

03:14PM 15 Q. Is that a bar along the water in Buffalo?

03:14PM 16 A. It was. I don't believe it's there anymore.

03:14PM 17 Q. Would the defendant come in and visit you when you
03:14PM 18 bartended?

03:14PM 19 A. Yes.

03:14PM 20 Q. What did the defendant tell you about why he had moved
03:14PM 21 back to Buffalo?

03:14PM 22 A. His wife's sister was sick and I believe she had passed.
03:14PM 23 And they wanted to come back and she was here first. And he
03:14PM 24 was trying to, I believe, wait his transfer with the DEA and
03:14PM 25 sell their home in Florida.

03:14PM 1 Q. After the defendant moved back from Florida and was back
03:14PM 2 in Buffalo, was he living with or was he separated from his
03:14PM 3 wife?

03:14PM 4 A. I believe they were living together.

03:15PM 5 Q. Shortly after coming back, did they separate?

03:15PM 6 A. Yes.

03:15PM 7 Q. And begin divorce each other?

03:15PM 8 A. Yes.

03:15PM 9 Q. Had you recently gone through a divorce as well?

03:15PM 10 A. Yes. At that timeframe, 2001, '2, yes.

03:15PM 11 Q. As the defendant is back in Buffalo going through his
03:15PM 12 divorce, did you and the defendant start to do more socially?

03:15PM 13 A. We did, yes.

03:15PM 14 Q. What types of things did you do together?

03:15PM 15 A. When I was tending bar, he would come in and see me. And
03:15PM 16 then if we had any free time, we'd try to meet out, catch up,
03:15PM 17 you know, for a drink.

03:15PM 18 Q. So you would go to bars together?

03:15PM 19 A. Well, when it permitted, yes.

03:15PM 20 Q. Did you and he join the same gym?

03:15PM 21 A. Yes.

03:15PM 22 Q. What gym was that?

03:15PM 23 A. The Fitness Factory.

03:15PM 24 Q. Where is that locate?

03:15PM 25 A. That's on Delaware Avenue in Kenmore.

03:16PM 1 Q. Did you work out together?

03:16PM 2 A. On occasion, yes.

03:16PM 3 Q. How many times per week would you get there together?

03:16PM 4 A. A few. Two. Three.

03:16PM 5 Q. So you're working out together two or three times a week.

03:16PM 6 He's coming in to visit you how many times a week as Harry's?

03:16PM 7 A. I predominantly worked on the weekends so it might be

03:16PM 8 sporadic, maybe a Friday or Saturday, not every Friday or

03:16PM 9 Saturday, but come in.

03:16PM 10 Q. And then when you guys both weren't working, would you go

03:16PM 11 out socially?

03:16PM 12 A. If it permitted, yes.

03:16PM 13 Q. When you would go out to bars together, would anyone else

03:16PM 14 typically go with you or was it just you and him type of

03:17PM 15 things?

03:17PM 16 A. It lot of times it was him and I, just meeting out.

03:17PM 17 Q. Eventually, when you would go out with the defendant

03:17PM 18 drinking, did you -- did he notice that you had used cocaine?

03:17PM 19 A. Yes.

03:17PM 20 Q. Describe that situation for the jury so they understand

03:17PM 21 what happened.

03:17PM 22 A. We were out. I had had some, a little bag of cocaine. I

03:17PM 23 did some of it and my demeanor changed. I told him --

03:17PM 24 Q. What happened next?

03:17PM 25 A. I told him I did a blast. I went in the bathroom and I

03:17PM 1 did a bump.

03:17PM 2 Q. How did the defendant react?

03:17PM 3 A. He didn't say anything.

03:17PM 4 Q. Eventually did it get to the point where he also used

03:17PM 5 cocaine with you at bars?

03:17PM 6 A. Yes.

03:17PM 7 Q. Was that a bit of a progression?

03:17PM 8 A. It was a progression.

03:17PM 9 Q. How did it get to that point? Explain it for the jury.

03:17PM 10 A. As we went out more frequently, if it was around, get a

03:18PM 11 little bit And then we would do it.

03:18PM 12 Q. When the defendant separated from JoAnn, do you know

03:18PM 13 where he was living?

03:18PM 14 A. I believe he moved back to Lovering.

03:18PM 15 Q. That same house, 221 Lovering?

03:18PM 16 A. Yes.

03:18PM 17 Q. Is that a house with an upper and lower apartment?

03:18PM 18 A. It is. It's a two unit.

03:18PM 19 Q. As you guys were going out to bars more or generally

03:18PM 20 socializing more, was he telling you about the problems he

03:18PM 21 was having with his wife, JoAnn?

03:18PM 22 A. Yes. They were in the midst of their divorce.

03:18PM 23 Q. Was he talking about any financial issues he was having

03:18PM 24 as a result of the divorce?

03:18PM 25 A. Yes, he was --

03:18PM 1 Q. What did he say?

03:18PM 2 A. It was going to be a strain because he was going to have
03:18PM 3 to pay maintenance, child support. I don't believe JoAnn was
03:19PM 4 working. So, a lot of expense was going to fall on him.

03:19PM 5 Q. Other than child support and maintenance, did he tell you
03:19PM 6 about other financial obligations he had with respect to his
03:19PM 7 daughter?

03:19PM 8 A. Yes.

03:19PM 9 Q. What did he say about that?

03:19PM 10 A. He split medical costs. I believe clothing, anything
03:19PM 11 that pertained to her, he was paying the majority of for.

03:19PM 12 Q. What was that last part of it, he was paying what?

03:19PM 13 A. The majority of expenses, was paying anything that she
03:19PM 14 would need.

03:19PM 15 Q. Did the defendant complain about his wife's lack of
03:19PM 16 contribution financially?

03:19PM 17 A. Yes.

03:19PM 18 Q. What would he say about that?

03:19PM 19 A. She's not working. She has a master's degree and he's
03:19PM 20 picking up all the slack. It's all falling on him.

03:20PM 21 Q. Did the defendant hire a lawyer with respect to the
03:20PM 22 divorce?

03:20PM 23 A. He did.

03:20PM 24 Q. Do lawyers cost money?

03:20PM 25 A. They do.

03:20PM 1 Q. How often -- how frequent of a topic when you would
03:20PM 2 socialize with the defendant during that timeframe was his
03:20PM 3 financial strain or obligations, how often would he bring it
03:20PM 4 up?

03:20PM 5 A. It was a presence, because as you try go ahead and go
03:20PM 6 forward in your life, now you have the obligation of this.

03:20PM 7 It was a presence so it was quite a bit.

03:20PM 8 Q. Was that something you had some common experience
03:20PM 9 with with the defendant?

03:21PM 10 A. I did. I had my own.

03:21PM 11 Q. I want to ask about some specifics and ask whether he
03:21PM 12 mentioned paying for it or not, okay.

03:21PM 13 Did the defendant in relation to his caught Chelsea ever
03:21PM 14 talk about paying for her schooling?

03:21PM 15 A. Yes.

03:21PM 16 Q. What did he say about that?

03:21PM 17 A. He was paying for it. She was going to a Catholic school
03:21PM 18 in Williamsville.

03:21PM 19 Q. Did he ever talk about paying for her dental or braces?

03:21PM 20 A. Yes.

03:21PM 21 Q. What did he say about that?

03:21PM 22 A. Any additional expenses that weren't covered under
03:21PM 23 insurance, he would have to cover.

03:21PM 24 Q. Did he ever talk about any medical expenses he was paying
03:21PM 25 with respect to any other treatments Chelsea was getting?

03:21PM 1 A. Not that I recall.

03:21PM 2 Q. When he would talk about how much he was paying and
03:22PM 3 his -- his ex-wife's JoAnn's lack of paying, did you notice a
03:22PM 4 change in his demeanor when that topic would come up?

03:22PM 5 A. Yes.

03:22PM 6 Q. What did you notice about it?

03:22PM 7 A. Stress. More stressful. More financial obligations,
03:22PM 8 more stress.

03:22PM 9 Q. Based on your knowledge of the defendant and your
03:22PM 10 discussions with him, did he have any other financial
03:22PM 11 obligations you were aware of, things he was paying for in
03:22PM 12 his personal life?

03:22PM 13 A. His living expenses, his rent, his car, his --

03:22PM 14 Q. What kind of car did he have at that time?

03:22PM 15 A. At that time I believe an Escalade.

03:22PM 16 Q. Cadillac Escalade?

03:22PM 17 A. Yes.

03:22PM 18 Q. Do you know if he bought it or if he was leasing it?

03:22PM 19 A. I believe leased.

03:23PM 20 Q. And you said his rent. Where was he renting?

03:23PM 21 A. His living expenses, where he was living on Lovering.

03:23PM 22 Q. So he paid his parents rent?

03:23PM 23 A. I believe he did.

03:23PM 24 Q. Okay. As you understood it, did his parents own that
03:23PM 25 home for a time?

03:23PM 1 A. Yes.

03:23PM 2 Q. By that point, were they retired, if you know?

03:23PM 3 A. They were.

03:23PM 4 Q. What observations did you make of the defendant's social

03:23PM 5 life during this time period? Was he going out more, going

03:23PM 6 out less?

03:23PM 7 A. He was starting to go out more.

03:23PM 8 Q. Does going out to bars cost money?

03:23PM 9 A. It does.

03:23PM 10 Q. In or about 2004, so after a couple years of being back,

03:24PM 11 maybe three -- three years or so, did the defendant start

03:24PM 12 dating a woman named Melissa?

03:24PM 13 A. Yes.

03:24PM 14 Q. Do you know her last name?

03:24PM 15 A. I don't.

03:24PM 16 Q. Okay. What types of things did they do socially?

03:24PM 17 A. Drink. Dinners. I believe they traveled, too.

03:24PM 18 Q. Did the defendant still have his financial obligations

03:24PM 19 related to his daughter while he was dating Melissa?

03:24PM 20 A. Yes. As far as I knew, yes.

03:24PM 21 Q. Did he and Melissa date for a number of years?

03:24PM 22 A. I believe five years.

03:24PM 23 Q. Did they even get engaged?

03:24PM 24 A. I believe they did, yes.

03:24PM 25 Q. Did the defendant tell you his spending habits in terms

03:25PM 1 of spending on Melissa?

03:25PM 2 A. There was more. She had champagne taste, so to speak,
03:25PM 3 liked the finer things. More dinners, outfits, that type
03:25PM 4 thing. The whole realm of it.

03:25PM 5 Q. While that's going on, he's still responsible for his
03:25PM 6 daughter?

03:25PM 7 A. Yes.

03:25PM 8 Q. And you said he dated Melissa for about five years?

03:25PM 9 A. I believe so, yes.

03:25PM 10 Q. That ends around 2009, would that be a decent estimate?

03:25PM 11 A. About there.

03:25PM 12 Q. After that, did he start dating another young lady
03:26PM 13 shortly thereafter?

03:26PM 14 A. Not right away, but shortly.

03:26PM 15 Q. Who's that?

03:26PM 16 A. His wife, Lindsay.

03:26PM 17 Q. His current wife, Lindsay?

03:26PM 18 A. Yes.

03:26PM 19 Q. I'll get more into that in a moment or a little bit
03:26PM 20 later, but just for now, did he take on financial
03:26PM 21 responsibilities related to his then-girlfriend, now wife
03:26PM 22 Lindsay?

03:26PM 23 A. Not in the beginning. At the beginning, she was just a
03:26PM 24 tenant in his house on Lovering. I believe his parents had
03:26PM 25 moved out and she was living upstairs. He was downstairs.

03:26PM 1 Q. Eventually, did he take on financial obligations --

03:26PM 2 A. Yes.

03:26PM 3 Q. -- related to her?

03:26PM 4 A. Yes.

03:26PM 5 Q. Okay. We'll get into that in a moment. But I'd like to
03:26PM 6 sort of switch gears for a moment.

03:26PM 7 We talked a little bit earlier about Italian Organized
03:27PM 8 Crime and discussions you and the defendant had about that
03:27PM 9 topic over time in your life; do you remember that?

03:27PM 10 A. Yes.

03:27PM 11 Q. But that's not the only topic you ever talked about
03:27PM 12 socially as friends; is that right?

03:27PM 13 A. That's correct.

03:27PM 14 Q. What other -- what other just types of topics did you
03:27PM 15 like to talk about with the defendant?

03:27PM 16 A. Besides that?

03:27PM 17 Q. Yeah.

03:27PM 18 A. Sports. Lot of different things. Current events,
03:27PM 19 whatever was going on.

03:27PM 20 Q. Relationships?

03:27PM 21 A. Relationships.

03:27PM 22 Q. In general conversation over time, did you and he ever
03:27PM 23 talk about, you know, like the concept of loyalty?

03:27PM 24 A. Yes.

03:27PM 25 Q. Is that concept part of what makes this difficult for

03:28PM 1 you?

03:28PM 2 A. Yes.

03:28PM 3 Q. Can you describe how those types of discussions about
03:28PM 4 loyalty would come up when you would have them with the
03:28PM 5 defendant over time in your life?

03:28PM 6 A. Just if we were talking about someone in general, and
03:28PM 7 just the general concept of it, what it means to be loyal.
03:28PM 8 The respect factor. How you feel about that person if
03:28PM 9 they're loyal.

03:28PM 10 Q. Is it something that would come up sporadically
03:28PM 11 throughout your life, those types of topics, concepts of
03:28PM 12 loyalty?

03:28PM 13 A. Yes, from time to time.

03:28PM 14 Q. In your view, based upon your discussions and
03:28PM 15 interactions with the defendant, do you believe loyalty was
03:28PM 16 an important -- important to the defendant?

03:28PM 17 A. Yes.

03:28PM 18 Q. Was the defendant someone you viewed as being loyal to
03:29PM 19 his friends?

03:29PM 20 A. Yes.

03:29PM 21 Q. Do you believe the defendant was loyal to his friends
03:29PM 22 that he grew up with in the neighborhood?

03:29PM 23 A. Yes.

03:29PM 24 Q. Do you believe the defendant was loyal to his friends
03:29PM 25 even after he became a member of law enforcement?

03:29PM 1 A. Yes.

03:29PM 2 Q. Was the defendant loyal to you even after he became a
03:29PM 3 member of law enforcement?

03:29PM 4 A. Yes.

03:29PM 5 **THE COURT:** Is this a good time for a break?

03:29PM 6 **MR. TRIPI:** Yes, sure, Judge. No problem.

03:29PM 7 **THE COURT:** Let's take our afternoon break. Remember
03:29PM 8 my instructions about not talking about the case, including
03:29PM 9 with each other, not making up your minds.

03:29PM 10 See you back here in about 10 or 15 minutes.

03:29PM 11 (Jury excused at 3:29 p.m.)

03:30PM 12 **THE COURT:** Okay. Anything for the record from the
03:30PM 13 defense?

03:30PM 14 **MR. SINGER:** No, Your Honor.

03:30PM 15 **THE COURT:** From the government?

03:30PM 16 **MR. TRIPI:** No, Your Honor.

03:30PM 17 May the witness step down.

03:30PM 18 **THE COURT:** Sure, you can step down.

03:30PM 19 (Witness excused at 3:30 p.m.)

03:30PM 20 **THE COURT:** I want to go close to 5.

03:30PM 21 **MR. TRIPI:** Okay.

03:30PM 22 **THE COURT:** But I'd like to break a few minutes
03:30PM 23 before, so -- you're not going to finish today, I take it.

03:30PM 24 **MR. TRIPI:** No, Your Honor.

03:30PM 25 **THE COURT:** So you let me know, you know, 10 to 5,

03:30PM 1 somewhere around there.

03:30PM 2 **MR. TRIPI:** Sounds good.

03:30PM 3 **THE COURT:** Okay. Great. Thanks.

03:30PM 4 (Off the record at 3:30 p.m.)

03:30PM 5 (Back on the record at 3:49 p.m.)

03:49PM 6 (Jury not present.)

03:49PM 7 **THE CLERK:** All rise.

03:49PM 8 **THE COURT:** Please be seated.

03:49PM 9 **THE CLERK:** We are back on the record for the
03:49PM 10 continuation of jury trial in case number 19-cr-227, United
03:49PM 11 States of America versus Joseph Bongiovanni.

03:49PM 12 All counsel and parties are present.

03:49PM 13 **THE COURT:** Okay. Anything we need to do before we
03:49PM 14 resume?

03:49PM 15 **MR. TRIPI:** No, Your Honor.

03:49PM 16 **MR. SINGER:** No, Judge.

03:49PM 17 **THE COURT:** Let's get the witness back in, and let's
03:49PM 18 bring the jury back in, please, Pat.

03:49PM 19 (Jury seated at 3:49 p.m.)

03:49PM 20 **THE COURT:** The record will reflect that all our
03:49PM 21 jurors again are present.

03:49PM 22 I remind the witness that he's still under oath.

03:49PM 23 And, Mr. Tripi, you may continue.

03:49PM 24 **MR. TRIPI:** Thank you very much, Your Honor.

25

03:49PM 1 BY MR. TRIPI:

03:49PM 2 Q. All right. Mr. Selva, I'd like to switch gears a little
03:49PM 3 bit and ask you about another person. Do you know Peter
03:49PM 4 Gerace, Jr.?

03:49PM 5 A. Yes.

03:49PM 6 Q. Who is he?

03:49PM 7 A. He is the owner of Pharaoh's nightclub, which is an adult
03:50PM 8 strip club. And he is also the grandson of Joe Todaro.

03:50PM 9 Q. And that's a name you've mentioned, Joe Todaro. Are you
03:50PM 10 referencing Joe Todaro Sr.?

03:50PM 11 A. Yes. Sorry.

03:50PM 12 Q. And that individual's now deceased, right?

03:50PM 13 A. He deceased, yes.

03:50PM 14 Q. Was -- did that individual, Mr. Todaro Sr., did he have a
03:50PM 15 reputation that you were aware of?

03:50PM 16 A. Yes. His reputation was that he was the head of
03:50PM 17 organized crime in Buffalo.

03:50PM 18 Q. Is that what we've been referring to as Italian Organized
03:50PM 19 Crime?

03:50PM 20 A. Yes.

03:50PM 21 Q. Is this defendant -- did this defendant have a
03:50PM 22 relationship with Peter Gerace, Jr.?

03:50PM 23 A. Yes.

03:50PM 24 Q. What was your understanding of the defendant's
03:50PM 25 relationship with Peter Gerace, Jr.?

03:51PM 1 A. They were good friends, they were close.

03:51PM 2 Q. Did the defendant ever tell you how he met or became
03:51PM 3 friends with Peter Gerace, Jr.?

03:51PM 4 A. No. Through the years. Just teens, 20s.

03:51PM 5 Q. So they've known each other a long time?

03:51PM 6 A. Yes. They worked together, I think, back in the day.

03:51PM 7 Bartending.

03:51PM 8 Q. Where? Where if you know?

03:51PM 9 A. It was a place called The Bubble, the Ramada. Long time
03:51PM 10 ago. It's since gone.

03:51PM 11 Q. What, if anything, has the defendant said to you about
03:51PM 12 Gerace's relationship with Todaro Sr.?

03:51PM 13 A. That it's his grandson. That he's aware it's his
03:51PM 14 grandson, and who Mr. Todaro was.

03:51PM 15 Q. Did you and the defendant ever discuss Mr. Todaro Sr.'s
03:51PM 16 reputation?

03:51PM 17 A. Yes.

03:52PM 18 Q. What do you recall about that conversation?

03:52PM 19 A. He was the owner of La Nova Pizzeria. And what his
03:52PM 20 status was in the Buffalo area is being an alleged boss of
03:52PM 21 the Buffalo organized crime family.

03:52PM 22 Q. What, if anything, did the defendant ever tell you about
03:52PM 23 Pharaoh's Gentlemen's Club?

03:52PM 24 A. He knew that Peter was the owner of that. Just it was an
03:52PM 25 adult nightclub.

03:52PM 1 Q. Did the defendant ever talk about going to Pharaoh's
03:52PM 2 Gentlemen's Club?

03:52PM 3 A. Yes.

03:52PM 4 Q. What did he say about that?

03:52PM 5 A. He's been there on occasion. I was with him -- I was
03:53PM 6 with him once there, a few times.

03:53PM 7 Q. Were you with him there once or twice?

03:53PM 8 A. Twice.

03:53PM 9 Q. During what approximate time period?

03:53PM 10 A. 2013, '14, '15, in that timeframe. Right when Peter had
03:53PM 11 taken it back over, he had lost control of it, and then he
03:53PM 12 got it back.

03:53PM 13 Q. So you're estimating between 2013 and '15?

03:53PM 14 A. That would sound right, yes.

03:53PM 15 Q. Was there an occasion when you were there with this
03:53PM 16 defendant at Pharaoh's where you observed an interaction
03:53PM 17 between the defendant and Mr. Gerace?

03:53PM 18 A. Yes.

03:53PM 19 Q. Describe what you observed for the jury.

03:53PM 20 A. We had stopped in for a drink, we were at the bar. Peter
03:54PM 21 had came over, he said hello. And then him and Joe stepped
03:54PM 22 aside and they had a conversation. I was standing there with
03:54PM 23 my drink. That conversation was, I don't know, three,
03:54PM 24 five -- five minutes long. And then he came back over to me.

03:54PM 25 Q. When you say they stepped aside, what -- can you

03:54PM 1 elaborate on what you mean by that, the defendant and Gerace
03:54PM 2 stepped aside? What did you mean by that?

03:54PM 3 A. They had a private conversation.

03:54PM 4 Q. So they walked away from you a little way?

03:54PM 5 A. Yes.

03:54PM 6 Q. Was it far enough where you couldn't see -- hear what

03:54PM 7 they said?

03:54PM 8 A. It was loud in there. It was loud and I was in the

03:54PM 9 corner and I was in the middle of the bar, so, yes, I did not

03:54PM 10 hear what they saying.

03:54PM 11 Q. Did they appear to be the only two people involved in the
03:54PM 12 conversation?

03:54PM 13 A. Yes.

03:54PM 14 Q. Did it appear to you to be a private conversation between
03:54PM 15 those two?

03:54PM 16 A. Yes.

03:54PM 17 Q. How long would you estimate that conversation lasted?

03:54PM 18 A. Three to five minutes. It was brief.

03:54PM 19 Q. When Mr. Bongiovanni came back over to you, or you were
03:55PM 20 at the bar, did he tell you what him and Peter talked about?

03:55PM 21 A. No.

03:55PM 22 Q. From your perspective, do you believe it was well known
03:55PM 23 that Mr. Gerace was Todaro Sr.'s grandson?

03:55PM 24 A. Yes.

03:55PM 25 Q. What, if anything, did the defendant ever tell you about

03:55PM 1 Peter Gerace and Pharaoh's, and a situation involving
03:55PM 2 U.S. Probation? Did he tell you anything about that?

03:55PM 3 A. Yes, he did.

03:55PM 4 Q. What did the defendant tell you about that situation?

03:55PM 5 A. Peter was on probation. He had did, I believe, four
03:55PM 6 months in federal prison for violation -- he got involved --
03:56PM 7 he owned a telemarketing business as well. And he got
03:56PM 8 violated, something had happened.

03:56PM 9 And the defendant had stepped in and talked to somebody
03:56PM 10 at U.S. Probation and instead of getting violated to go back
03:56PM 11 to prison, he wore an ankle bracelet.

03:56PM 12 Q. That's how the defendant explained it to you?

03:56PM 13 A. Yes.

03:56PM 14 Q. The defendant tell you why he did that, why he stepped in
03:56PM 15 to help Gerace?

03:56PM 16 A. I believe Peter asked for his help.

03:56PM 17 Q. By that point in time, had the defendant and Gerace been
03:56PM 18 friends for a long time as far as you knew?

03:56PM 19 A. Yes.

03:57PM 20 Q. Did Peter Gerace have a brother Anthony?

03:57PM 21 A. He did, and a brother David.

03:57PM 22 Q. Was Anthony someone who became involved with Ron Serio
03:57PM 23 and the marijuana trafficking that you were involved in?

03:57PM 24 A. Yes. But through Ron, I never dealt with Anthony. But
03:57PM 25 yes. He was involved.

03:57PM 1 Q. I'm talking about as part of the larger group?

03:57PM 2 A. Yes.

03:57PM 3 Q. Did the defendant ever tell you anything about a
03:57PM 4 situation where he helped Anthony Gerace?

03:57PM 5 A. Yes.

03:57PM 6 Q. Describe what this defendant told you about helping
03:57PM 7 Anthony Gerace.

03:57PM 8 A. I believe Peter reached out to the defendant, he had --

03:58PM 9 Anthony had been arrested for cocaine possession, two or
03:58PM 10 three ounces of cocaine, whatever it was. And the defendant
03:58PM 11 stepped in, reached out to a contact he had at Amherst Police
03:58PM 12 Department to try to help him.

03:58PM 13 Q. Is that what the defendant told you about the situation?

03:58PM 14 A. Yes.

03:58PM 15 Q. Did he tell you how it resolved?

03:58PM 16 A. No.

03:58PM 17 Q. Did the defendant tell you why he stepped in for Anthony
03:58PM 18 Gerace?

03:58PM 19 A. Because Peter had asked him. Because of his friendship
03:58PM 20 with Peter.

03:58PM 21 Q. And Peter's Anthony's brother?

03:58PM 22 A. Peter's Anthony's older brother.

03:58PM 23 Q. Do you recall what the defendant told you that he told
03:58PM 24 Anthony Gerace? Or, what the defendant told Amherst about
03:59PM 25 Anthony Gerace to help him get out of trouble?

03:59PM 1 A. I -- I don't recall.

03:59PM 2 Q. I'm going to try to show you something to see if I could
03:59PM 3 help refresh your recollection.

03:59PM 4 A. Please.

03:59PM 5 Q. If that's okay.

04:00PM 6 **MR. TRIPI:** Mr. Singer, I'm going to show him Exhibit
04:00PM 7 3540I at page 7.

04:00PM 8 **BY MR. TRIPI:**

04:00PM 9 Q. Mr. Selva, I'm going to hand up Exhibit 3540I at page 7.
04:00PM 10 There are two bullet points. I want you to read the first
04:00PM 11 two bullet points to yourself and then I'm going to take this
04:00PM 12 back and then I'll ask you some questions, okay?

04:00PM 13 A. Okay.

04:01PM 14 Q. Did you read those first two bullet points?

04:01PM 15 A. Yes, yes.

04:01PM 16 Q. Did reading that refresh your recollection?

04:01PM 17 A. Yes.

04:01PM 18 Q. Do you recall what the defendant told you that he said to
04:01PM 19 Amherst police when -- to step in for Anthony Gerace?

04:01PM 20 A. He was a cooperating witness. He was a cooperating
04:01PM 21 informant.

04:01PM 22 Q. So the defendant told you that he told Amherst that
04:01PM 23 Anthony Gerace was a cooperator?

04:01PM 24 A. Yes.

04:01PM 25 Q. To your knowledge, had the defendant and Peter Gerace

04:02PM 1 gone on trips together?

04:02PM 2 A. Yes.

04:02PM 3 Q. Where have they gone on trips together?

04:02PM 4 A. Las Vegas, New York, Canada. They might have gone to
04:02PM 5 Florida.

04:02PM 6 Q. How -- how would you become aware of those trips the two
04:02PM 7 of them would take?

04:02PM 8 A. The defendant would tell me.

04:02PM 9 Q. Do you know who Tom Doctor is?

04:02PM 10 A. I do.

04:02PM 11 Q. Is that someone who's friends with the defendant?

04:02PM 12 A. Yes.

04:02PM 13 Q. Is that a person who you -- you and the defendant knew
04:02PM 14 though growing up?

04:02PM 15 A. Yes.

04:02PM 16 Q. How long have you known Tom Doctor?

04:02PM 17 A. Since 20s, my early 20s.

04:02PM 18 Q. Did he later become a member of -- Tom Doctor later
04:03PM 19 become a member of law enforcement with the defendant?

04:03PM 20 A. Yes, he was a member of Buffalo PD.

04:03PM 21 Q. Did he work with DEA?

04:03PM 22 A. He was on the DEA task force.

04:03PM 23 Q. Would you socialize with the defendant and Tom Doctor?

04:03PM 24 A. On occasion, yes.

04:03PM 25 Q. Have you done cocaine with Tom Doctor and the defendant?

04:03PM 1 A. Yes.

04:03PM 2 Q. Approximately how many times?

04:03PM 3 A. A few.

04:03PM 4 Q. At that time, were they both members of law enforcement?

04:03PM 5 A. Yes.

04:03PM 6 Q. What, if anything, did Mr. Bongiovanni tell you about

04:03PM 7 attending Tom Doctor's annual Fourth of July party with Peter

04:03PM 8 Gerace?

04:03PM 9 A. It was an annual party that he had out in Angola and he

04:03PM 10 had a cottage out there. It was a big bash, it was annual.

04:03PM 11 Q. Did Gerace attend that?

04:03PM 12 A. I believe he did, yes.

04:03PM 13 Q. Did the defendant tell you that?

04:04PM 14 A. Yes.

04:04PM 15 Q. Have you been to that cottage?

04:04PM 16 A. I have been there once.

04:04PM 17 Q. What, if anything, did the defendant tell you about going

04:04PM 18 to Peter Gerace's parents' 50th anniversary?

04:04PM 19 A. He told me he attended that as well, his parents

04:04PM 20 anniversary.

04:04PM 21 Q. Why did that stand out to you?

04:04PM 22 A. I don't know. I just -- why did it stand out to me?

04:04PM 23 Q. Yeah, why do you remember the defendant telling you that

04:04PM 24 he went to Peter Gerace's parents' 50th anniversary?

04:04PM 25 A. Because I had an anniversary party for my parents and it

04:04PM 1 was a 50th anniversary, and he didn't come to that, so it
04:04PM 2 just stood out.

04:04PM 3 Q. So the defendant didn't come to your parents' 50th but he
04:04PM 4 went to Peter Gerace's?

04:04PM 5 A. Yes.

04:04PM 6 Q. When the defendant got married to Lindsay, who was the
04:05PM 7 best man at the wedding?

04:05PM 8 A. Me.

04:05PM 9 Q. A couple more questions about Anthony Gerace.

04:05PM 10 In the context of Ron Serio's associates in his drug
04:05PM 11 organization, eventually did you learn Anthony was involved
04:05PM 12 in the marijuana distribution activity with Ron Serio and
04:05PM 13 others that were part of the organization you were in?

04:05PM 14 A. I did.

04:05PM 15 Q. Approximately when did you learn about Anthony being
04:05PM 16 involved? And when I say that, I mean approximately what
04:05PM 17 year.

04:05PM 18 A. 2017, 2016, that timeframe.

04:05PM 19 Q. Who did you learn it from?

04:05PM 20 A. That Anthony was involved?

04:05PM 21 Q. Yes.

04:05PM 22 A. Mike had told me.

04:06PM 23 Q. Mike Masecchia?

04:06PM 24 A. Yes.

04:06PM 25 Q. All right. You have said his name at the beginning. I

04:06PM 1 now want to get into more detail about Ron Serio and then
04:06PM 2 sort of your involvement in the drug activity with Serio and
04:06PM 3 Masecchia that led to the bribery that we're here to talk
04:06PM 4 about, okay?

04:06PM 5 A. Okay.

04:06PM 6 Q. How do you know Ron Serio?

04:06PM 7 A. I met him through Mike Masecchia.

04:06PM 8 Q. Did you know of him before you first met him?

04:06PM 9 A. I did.

04:06PM 10 Q. Who did you first learn of him through?

04:06PM 11 A. Well, Mike had known him a while.

04:06PM 12 Q. Just who did you learn about Ron from?

04:07PM 13 A. From Mike.

04:07PM 14 Q. Okay. Who first introduced you to Ron?

04:07PM 15 A. I believe it was Joe Tomasello.

04:07PM 16 Q. Now describe how you became acquainted with Ron Serio.

04:07PM 17 A. Through -- well, I -- I met him through Joe Tomasello.

04:07PM 18 But Mike was close with him at the time. And then Mike

04:07PM 19 reintroduced me to him so to speak.

04:07PM 20 Q. I want to direct your attention to approximately in or
04:07PM 21 about the year 2008. Okay?

04:07PM 22 A. Okay.

04:07PM 23 Q. What was your financial situation like at that time?

04:07PM 24 A. It was very rough. I was divorced. I had just declared
04:08PM 25 bankruptcy. I had two children that I was paying child

04:08PM 1 support for. And I was working two jobs as well.

04:08PM 2 Q. What were the two jobs you were working?

04:08PM 3 A. At that time, I was -- again, I was in the wireless
04:08PM 4 business. I was a manager for a wireless company, and I was
04:08PM 5 bartending.

04:08PM 6 Q. Where were you bartending at that time?

04:08PM 7 A. 2008? I believe still was Harry's Harbor. Maybe Jimmy
04:08PM 8 Mac's, I don't recall. I bounced around bartending wherever
04:08PM 9 I could find shifts.

04:08PM 10 Q. Did you pursue an opportunity to make additional money
04:08PM 11 through illegal means?

04:08PM 12 A. I did.

04:08PM 13 Q. By that point in time, did you know that Mike Masecchia
04:08PM 14 was involved in trafficking marijuana?

04:08PM 15 A. I did.

04:08PM 16 Q. Did you speak with an individual named Joe Tomasello
04:09PM 17 about becoming involved --

04:09PM 18 A. I did.

04:09PM 19 Q. -- in that activity?

04:09PM 20 A. Yes.

04:09PM 21 Q. Was Tomasello also involved with Masecchia at the time?

04:09PM 22 A. At that time, yes.

04:09PM 23 Q. Describe your initial conversation with Tomasello
04:09PM 24 regarding wanting to get involved with Masecchia and the
04:09PM 25 trafficking.

04:09PM 1 A. I reached out to him, we met out. Told him I'd just gone
04:09PM 2 through a divorce, I'm basically broke, I'm working two jobs.
04:09PM 3 And I'm very familiar with what was going on, and I wanted to
04:09PM 4 get involved. How can I -- what can I do to get involved.

04:09PM 5 And he said, you have to reach out to Mike, who I knew
04:09PM 6 very well, and I did. I reached out to Mike.

04:09PM 7 Q. Tomasello said you have to reach out to Mike meaning
04:10PM 8 Masecchia?

04:10PM 9 A. Yeah, because -- Masecchia, he was running the show so to
04:10PM 10 speak.

04:10PM 11 Q. Okay. Now, just to make it easier for the jury to follow
04:10PM 12 when you're explaining conversations, can you instead of
04:10PM 13 saying he and he --

04:10PM 14 A. Sure.

04:10PM 15 Q. -- can you use names for us?

04:10PM 16 A. Sure.

04:10PM 17 Q. Okay. That will just have me ask less follow-up
04:10PM 18 questions?

04:10PM 19 A. Understood, yes.

04:10PM 20 Q. After that, did you reach out to Masecchia?

04:10PM 21 A. I did. I reached out to Mike.

04:10PM 22 Q. And was that for the purpose of becoming involved in the
04:10PM 23 marijuana trafficking activity?

04:10PM 24 A. Yes.

04:10PM 25 Q. Before you reached out to Masecchia to become involved,

04:10PM 1 what was your understanding of what the involve -- the
04:10PM 2 operation was?

04:10PM 3 A. It was an outdoor operation. They had two spots, one in
04:10PM 4 Angelica, one in Chautauqua or Cattaraugus, Franklinville
04:10PM 5 area. They were outdoor grows, they had plants outdoors and
04:11PM 6 the work was -- you would have to maintain and take care of
04:11PM 7 the plants. There is also a process, too, that you had to
04:11PM 8 do. You had to prepare the plants to bring out to plant into
04:11PM 9 the ground.

04:11PM 10 Q. I guess this is a good time. Can you -- you're familiar
04:11PM 11 with that process of outdoor marijuana growing?

04:11PM 12 A. I am.

04:11PM 13 Q. Can you describe that process for the jury from the
04:11PM 14 beginning to end, just the steps in an outdoor marijuana grow
04:11PM 15 operation?

04:11PM 16 A. Sure.

04:11PM 17 Q. Please do.

04:11PM 18 A. You have to first get clones, and you get clones from a
04:11PM 19 mother plant, and you clip those clones, leaves, and then you
04:11PM 20 put them in a clone machine. And the objective is to get
04:11PM 21 them to stem to -- to get a root.

04:11PM 22 Once they're rooted, you transplant them. You put them
04:11PM 23 under a -- a light. And you want to get them about -- again,
04:11PM 24 they're in little transplant -- plants -- containers. You
04:11PM 25 want to get them about a couple inches high. Maybe that big.

04:12PM 1 **MR. TRIPI:** May the record reflect the witness held
04:12PM 2 his fingers just at 6 inches apart.

04:12PM 3 **THE WITNESS:** About 6 inches. You want them to be
04:12PM 4 big enough so you can take them and then transplant them into
04:12PM 5 the ground in an outdoor spot but you want to make sure that
04:12PM 6 they're strong enough to -- to withstand that, too, so you got
04:12PM 7 to nurture them, you've got to take care of them, there's a
04:12PM 8 lot of prep.

04:12PM 9 **BY MR. TRIPI:**

04:12PM 10 Q. Does that cloning process happen indoors somewhere?

04:12PM 11 A. It happens indoors.

04:12PM 12 Q. Okay. So once the -- once they're large enough to
04:12PM 13 transplant outdoors, they have to be planted in the ground?

04:12PM 14 A. Correct.

04:12PM 15 Q. Take it from there. What are the next steps from there?

04:12PM 16 A. It goes from cloning to -- when it -- when it's
04:12PM 17 transplanted into the ground?

04:12PM 18 Q. Yes, please.

04:12PM 19 A. Then you have the -- the taking care part. You have
04:12PM 20 to -- you -- you put them in bigger buckets or we would dig a
04:12PM 21 hole and put them right into the ground, whichever was --
04:12PM 22 whichever we would do.

04:12PM 23 Preferably we would use bigger buckets, and then you had
04:12PM 24 to take care of them. You had to go out to the country at
04:13PM 25 least two to three times a week, water them, take care of

04:13PM 1 them, give them nutrients, make sure the animals didn't get
04:13PM 2 them, put deer repellent, that type thing, around the
04:13PM 3 parameter, because you had a parameter of 50 plants and you
04:13PM 4 had to take care of it.

04:13PM 5 You always wanted it near a water source. You know, it
04:13PM 6 was on state land usually, water source being a creek because
04:13PM 7 you were carrying buckets to the water -- to the -- to the
04:13PM 8 forest, the woods, to water the plants.

04:13PM 9 Q. And would steps or precautions be taken to conceal -- you
04:13PM 10 mentioned state land. What was the importance of state land?

04:13PM 11 A. State land would always be near the land of someone that
04:13PM 12 we knew, so it was -- so if they ever got caught, it couldn't
04:13PM 13 be turned on to the individual whose land was near it. If
04:13PM 14 that -- if that makes sense, so somebody that had land out in
04:13PM 15 Angelica or Franklinville, we would look for state land which
04:13PM 16 was out there quite a bit.

04:14PM 17 And then we would plant the plants on state land because
04:14PM 18 there was no ownership, so to speak, of that land. It
04:14PM 19 couldn't come back to anybody.

04:14PM 20 Q. But you and the group you were involved with knew where
04:14PM 21 the plants were?

04:14PM 22 A. We knew where -- yeah, absolutely, yes.

04:14PM 23 Q. How long is the growing season?

04:14PM 24 A. You would want to get them in the ground by right around
04:14PM 25 Memorial Day and then try to stretch it all the way through,

04:14PM 1 as long as you could, in October.

04:14PM 2 But October would be getting a little rainy, colder. So
04:14PM 3 you had to really keep an eye on it because they could die,
04:14PM 4 they could get moldy. So first week in October, usually,
04:14PM 5 depending on weather.

04:14PM 6 Q. And then when the plants are ready to be harvested, can
04:14PM 7 you describe the harvesting process for the jury?

04:15PM 8 A. Yes. Once they're harvested, you have to cut them down
04:15PM 9 in the woods. You cut them down, we put them in bags and
04:15PM 10 when we transport it to a location where we hung them, we'd
04:15PM 11 have -- we'd set up clothing lines, and we'd have fans
04:15PM 12 blowing with dehumidifiers and the windows blocked and you
04:15PM 13 have to -- it's a drying process.

04:15PM 14 Q. What's the purpose of drying them?

04:15PM 15 A. So you can, when you pull them out of the ground, they're
04:15PM 16 soaking wet, they're wet, so you want to dry them out, and
04:15PM 17 then you have to clip the leaf off to get to the bud, so the
04:15PM 18 objective is to dry it out where it's dry enough where you
04:15PM 19 can trim it, clip, get the bud and the bud is what you sell.

04:15PM 20 Q. The bud is what people smoke?

04:15PM 21 A. Exactly, the bud is what people smoke. That has the THC
04:15PM 22 in it, correct.

04:15PM 23 Q. And then I guess we'll just talk about this now. Once
04:16PM 24 the plants are dry and clipped down to the buds, do you put
04:16PM 25 those buds in bags? How -- how do you -- how do you get them

04:16PM 1 ready to move?

04:16PM 2 A. They go into quarter-pound and half-pound bags once
04:16PM 3 they're dried and clipped. So you bag them, and then you'd
04:16PM 4 move them from there.

04:16PM 5 Q. Are we talking like plastic bags?

04:16PM 6 A. Yes, like big quarter pound sandwich bags.

04:16PM 7 Q. Like Ziploc bags?

04:16PM 8 A. I'm sorry?

04:16PM 9 Q. Ziploc bags?

04:16PM 10 A. Ziploc bags, yes. Ziploc bags, better analogy.

04:16PM 11 Q. And then would you take those buds that are now in these
04:16PM 12 Ziploc type plastic bags and transport them back to Buffalo?

04:16PM 13 A. Yes.

04:16PM 14 Q. And I'll talk more about -- I'll ask you more about this
04:16PM 15 a little bit later, but was there a strategy involved for
04:16PM 16 when those would be transported?

04:16PM 17 A. There was. Once the process was done and they were
04:17PM 18 bagged and it was ready to go, we would have to transport it
04:17PM 19 in either my vehicle, or Mike's vehicle. We'd lay it down in
04:17PM 20 the back seat and we pulled the cover over it and put a
04:17PM 21 blanket over it so the marijuana is not -- you can't see it.

04:17PM 22 And we would always move during business hours, during
04:17PM 23 rush hour. We would never do it early in the morning or in
04:17PM 24 middle of the day. We wanted to do it with the flow of
04:17PM 25 traffic and kind of blend in to get it from the Southern Tier

04:17PM 1 to where we would bring it, which was in the city, to get rid
04:17PM 2 of to Ron. Ron was the major point of contact.

04:17PM 3 Q. So as --

04:17PM 4 A. Ron Serio.

04:17PM 5 Q. So as you're getting involved and you're approaching
04:17PM 6 Masecchia about getting involved, did you describe everything
04:17PM 7 that you just talked about with this jury about the process
04:17PM 8 and -- and the -- and how Mike Masecchia's operation was
04:18PM 9 working?

04:18PM 10 A. That's it. At that time, that's how it was working.

04:18PM 11 Q. And what did he tell you Serio's role was?

04:18PM 12 A. Ron would cash us out. So whatever we were able to
04:18PM 13 yield, we would bring it to Ron, and Ron would pay cash for
04:18PM 14 it because he had a much bigger network.

04:18PM 15 Q. So Ron takes the product?

04:18PM 16 A. Yes.

04:18PM 17 Q. Provides currency, and then he has people help him move
04:18PM 18 the product for more profit?

04:18PM 19 A. Correct.

04:18PM 20 Q. So when you talked to Masecchia about becoming involved,
04:18PM 21 describe your conversation with him.

04:18PM 22 A. Again, my situation was coming out of bankruptcy, I was
04:18PM 23 divorced, two kids, and I told him I was in a bad way and I
04:18PM 24 could offer -- I can offer using my basement.

04:18PM 25 If we did, I had an ionizer down there and we could

04:19PM 1 deflect the smell, but they weren't there for that long a
04:19PM 2 period of time because it was just to get them ready, to
04:19PM 3 clone them, transplant them and bring them outdoors. So it
04:19PM 4 was a very short period.

04:19PM 5 Q. So you offered your basement to Masecchia as -- as a
04:19PM 6 place where you could prepare clones?

04:19PM 7 A. Yes. Exactly.

04:19PM 8 Q. Did Masecchia tell you who was involved with the outdoor
04:19PM 9 grows at those two locations in Angelica and Franklinville?

04:19PM 10 A. He did.

04:19PM 11 Q. So, was Joe Tomasello at that time?

04:19PM 12 A. At that time, yes.

04:19PM 13 Q. Who was -- who else?

04:19PM 14 A. Dave Hersey, Mike, Sal Lima and Anthony Martone.

04:19PM 15 Q. And Serio was involved, as you said, cashing out?

04:19PM 16 A. Yeah. He wasn't involved at that point in the grow op.

04:19PM 17 He was at a much higher level. We would take the -- the

04:20PM 18 marijuana to him and he would --

04:20PM 19 Q. So he wasn't working the grows like you were working, but
04:20PM 20 he was part of the operation in terms of moving the product?

04:20PM 21 A. Yes.

04:20PM 22 Q. Up to that point in your life, as you're having this

04:20PM 23 conversation with Masecchia about who's involved and --

04:20PM 24 and -- and what would -- what the operations were, for how
04:20PM 25 many years up to that point in your life had you known

04:20PM 1 Masecchia to be involved in marijuana distribution?

04:20PM 2 A. Long time. I mean --

04:20PM 3 Q. Give the jury an estimate, as best you?

04:20PM 4 A. Before I approached him? 20 years.

04:20PM 5 Q. So he had been doing it for decades?

04:20PM 6 A. Long time, probably even longer than that.

04:20PM 7 Q. Prior to that point in time when you're having this

04:20PM 8 discussion with Masecchia over the years of going to bars and

04:20PM 9 socializing with the defendant after he was a DEA agent, had

04:20PM 10 you ever discussed Masecchia's status as a marijuana

04:20PM 11 distributor with the defendant?

04:20PM 12 A. Yes.

04:20PM 13 Q. What do you remember talking with this defendant about

04:21PM 14 Masecchia's status as a marijuana distributor?

04:21PM 15 A. It was kind of known. I believe he was aware of it. You

04:21PM 16 know, like you mentioned, decades, so everybody kind of knew.

04:21PM 17 And the defendant knew as well.

04:21PM 18 Q. What do you remember about conversations with the

04:21PM 19 defendant?

04:21PM 20 A. He knew Mike was involved. He knew what he was doing.

04:21PM 21 Q. Was this at the same time that Masecchia had a reputation

04:21PM 22 for being connected to IOC, Italian Organized Crime?

04:21PM 23 A. Yes.

04:21PM 24 Q. Based on your discussions with the defendant, do you

04:21PM 25 believe he was also aware of that reputation?

04:21PM 1 A. Yes.

04:21PM 2 Q. I'm going to ask another follow-up question.

04:22PM 3 Approximately when did you and the defendant first discuss --

04:22PM 4 so, approximate year, did you and the defendant first discuss

04:22PM 5 Masecchia's involvement in marijuana distribution activity,

04:22PM 6 before you were involved. Just how far back do you recall

04:22PM 7 discussing Masecchia being involved as a weed distributor

04:22PM 8 with this defendant?

04:22PM 9 A. Oh, God, it had to be in the '90s. I mean, he went back
04:22PM 10 quite a while that he was involved.

04:22PM 11 Q. Now, same question. Approximately how far back do you
04:22PM 12 remember discussing Masecchia's reputation as a tough guy,

04:23PM 13 connected to Italian Organized Crime with this defendant?

04:23PM 14 A. Going -- he was always known as a tough guy, so that
04:23PM 15 would be a long time ago as well.

04:23PM 16 Q. Okay. How about the organized crime part?

04:23PM 17 A. That came about later in life. I don't know. 30s.

04:23PM 18 Q. What decade?

04:23PM 19 A. Late '90s. Around there.

04:23PM 20 Q. Did you say late '90s?

04:23PM 21 A. Late '90's.

04:23PM 22 Q. Before you asked Masecchia to become involved directly in
04:23PM 23 this operation, did you have a belief in your mind about
04:23PM 24 whether the defendant was already looking out for Masecchia?

04:23PM 25 **MR. SINGER:** Objection.

04:24PM

1 BY MR. TRIPI:

04:25PM

2 Q. When you were coming to the decision to ask Mike
04:25PM 3 Masecchia whether to become involved, did you make some
4 calculations in your mind about whether it would be worth it
04:25PM 5 for you?

04:25PM

6 A. Yes.

04:25PM

7 Q. Did you weigh the -- in your mind, did you weigh the risk
04:25PM 8 versus the reward?

04:25PM

9 A. Yes. At that time, it was desperate.

04:25PM

10 Q. Were you interested in making money?

04:25PM

11 A. Yes, I was --

04:25PM

12 Q. Were you interested in not getting caught?

04:25PM

13 A. Yes.

04:25PM

14 Q. Were all the individuals that -- was Mike Masecchia
04:25PM 15 someone who had been good friends with and known the
04:25PM 16 defendant for a long time?

04:25PM

17 A. Yes.

04:25PM

18 Q. Was Joe Tomasello someone who the -- in your mind, the
04:25PM 19 defendant had been friends with for a long time?

04:25PM

20 A. Yes. They knew each other.

04:25PM

21 Q. Was -- were some of the other persons -- Anthony Martone
04:26PM 22 was another name you mentioned.

04:26PM

23 A. Yes.

04:26PM

24 Q. Was he someone that was friends with the defendant?

04:26PM

25 A. Yes. We all were friends from the neighborhood, we all

04:26PM 1 knew each other.

04:26PM 2 Q. Okay. And so, when -- when you're looking to become
04:26PM 3 involved in this type of activity, did you have an interest
04:26PM 4 in not getting caught?

04:26PM 5 A. Yes.

04:26PM 6 Q. Did you have an interest in not potentially getting
04:26PM 7 arrested?

04:26PM 8 A. Yes.

04:26PM 9 Q. Did the fact that these individuals were friends with the
04:26PM 10 defendant, like you were, and like Masecchia was, play into
04:26PM 11 your calculus?

04:26PM 12 A. Yes.

04:26PM 13 Q. So now I'll go back and ask my question that I asked a
04:26PM 14 moment ago: Before you became involved, did you have a
04:26PM 15 belief that Bongiovanni was already looking out for Masecchia
04:26PM 16 by the time you were expressing interest in becoming involved
04:26PM 17 in Masecchia's operation?

04:26PM 18 **MR. SINGER:** Again, objection, Judge, speculation.

04:26PM 19 **THE COURT:** No, overruled.

04:26PM 20 **THE WITNESS:** Yes. I mean, like I mentioned, it
04:26PM 21 was -- he was aware of it because it was going on prior to
04:26PM 22 that, from the '90s, so yes, I believe he had his best
04:26PM 23 interest.

04:27PM 24 **BY MR. TRIPPI:**

04:27PM 25 Q. Yes, you believe what?

04:27PM 1 A. I believe for his best interest, he was looking out for
04:27PM 2 him.

04:27PM 3 Q. So you believe Bongiovanni was looking out for Masecchia?

04:27PM 4 A. Yes.

04:27PM 5 Q. Now, among that group that we just talked about, Ron
04:27PM 6 Serio, is he younger?

04:27PM 7 A. He's younger.

04:27PM 8 Q. Did he go to high school with you and Masecchia and
04:27PM 9 Bongiovanni?

04:27PM 10 A. We went to the same high school but he was way behind us,
04:27PM 11 not when we were there.

04:27PM 12 Q. Okay. So, would it be accurate to say he didn't have the
04:27PM 13 same childhood friendships that you and Masecchia had with
04:27PM 14 the defendant?

04:27PM 15 A. Yes.

04:27PM 16 Q. In your discussions with Masecchia about getting
04:28PM 17 involved, did protection for Ron come up?

04:28PM 18 A. With Masecchia?

04:28PM 19 Q. Yeah.

04:28PM 20 A. Yes.

04:28PM 21 Q. Describe -- when you're having a conversation about
04:28PM 22 becoming involved, describe how the topic of protection for
04:28PM 23 Ron comes up.

04:28PM 24 A. Masecchia raised that topic. He asked if I could reach
04:28PM 25 out to the defendant, and just get -- just get a feel if he

04:28PM 1 would have a watchful eye over this, see where he was at.

04:28PM 2 Q. What do you mean by a watchful eye?

04:28PM 3 A. Because they were -- Mike was more involved with Ron than

04:28PM 4 I was. And their operation was -- was getting ready to grow.

04:28PM 5 So if he can be tipped off or any information that can be

04:29PM 6 given.

04:29PM 7 Q. Grow in the sense of operations expanding versus growing

04:29PM 8 plants?

04:29PM 9 A. Yes, I should have been more clear with that, yes.

04:29PM 10 Q. What specifically did Masecchia say about bribing the

04:29PM 11 defendant?

04:29PM 12 A. He said he talked it over with Ron and reach out to him

04:29PM 13 and see if he would be interested in providing information

04:29PM 14 and getting paid for that.

04:29PM 15 Q. Okay. I'm going to try to break down because you used he

04:29PM 16 a lot again. You have got to use names if you could, but can

04:29PM 17 you repeat that answer using names?

04:29PM 18 A. Mike reached out to me to see if the defendant would be

04:29PM 19 interested in providing information and getting paid for it.

04:30PM 20 Q. And Masecchia had discussed that with Ron?

04:30PM 21 A. He had discussed it with Ron.

04:30PM 22 Q. And Ron was willing to pay?

04:30PM 23 A. Ron was willing to pay.

04:30PM 24 Q. In your discussions with Masecchia, was it important to

04:30PM 25 you and Masecchia for Ron to be protected?

04:30PM 1 A. Yes.

04:30PM 2 Q. Why?

04:30PM 3 A. Because Ron was -- he was the top of the food chain.

04:30PM 4 Without him, there was no way we could cash out and continue
04:30PM 5 doing what we were doing on the -- on the outdoor. But they
04:30PM 6 were also involved getting -- their operating was getting
04:30PM 7 ready to expand.

04:30PM 8 Q. Why -- what do you mean by Ron was -- was at the top of
04:30PM 9 the food chain?

04:30PM 10 A. He was the guy. I mean, he would be the one who -- when
04:30PM 11 I mean that, like I mentioned earlier, when we got the
04:30PM 12 marijuana from -- from the country, he was the one who was
04:30PM 13 paying for it. And he had an organization that was much
04:30PM 14 larger than what we were doing.

04:30PM 15 Q. So he was the one moving the product?

04:31PM 16 A. Yes.

04:31PM 17 Q. Were you confident that you could approach the defendant
04:31PM 18 about getting -- withdrawn. I'll get to that next.

04:31PM 19 Was there a dollar amount discussed that you should offer
04:31PM 20 the defendant?

04:31PM 21 A. In the beginning?

04:31PM 22 Q. Yes.

04:31PM 23 A. Yes.

04:31PM 24 Q. What was that dollar amount?

04:31PM 25 A. \$2,000.

04:31PM 1 Q. How frequently?

04:31PM 2 A. A month.

04:31PM 3 Q. So \$24,000 a year?

04:31PM 4 A. Yes.

04:31PM 5 Q. Were you confident that you could take that offer to the
04:31PM 6 defendant and offer it to him?

04:31PM 7 A. Yes.

04:31PM 8 Q. What made you confident that you could take a bribe to a
04:31PM 9 federal DEA agent, offer it to him, and not get arrested on

04:32PM 10 the spot?

04:32PM 11 What made you confident that this defendant wouldn't
04:32PM 12 arrest you immediately?

04:32PM 13 A. Our relationship. We've known each other our whole lives
04:32PM 14 at that time. We were close. And his situation was getting
04:32PM 15 a little bit more deeper with his expenses. So I thought he
04:32PM 16 would be able to accept it and move forward.

04:32PM 17 Q. By that point, had you done cocaine with him as a DEA
04:32PM 18 agent?

04:32PM 19 A. Yes.

04:32PM 20 Q. Did that help make you confident you could talk to him
04:32PM 21 about this?

04:32PM 22 A. Yes.

04:32PM 23 Q. Did Ron Serio have a nickname that -- that Masecchia
04:33PM 24 called him?

04:33PM 25 A. He did.

04:33PM 1 Q. What was that nickname?

04:33PM 2 A. Greenie.

04:33PM 3 Q. Why did Masecchia call Ron Serio Greenie?

04:33PM 4 A. Because he's the one who had the money.

04:33PM 5 Q. Was Serio also, in your view as you got to know him, good
04:33PM 6 at moving marijuana?

04:33PM 7 A. Yes.

04:33PM 8 Q. Did he appear to be a good businessman?

04:33PM 9 A. He was a very good businessman.

04:33PM 10 Q. Was he a good narcotics trafficker?

04:33PM 11 A. Yes.

04:33PM 12 Q. So was the objective of your discussion with Masecchia as
04:33PM 13 it related to offering this defendant bribes in the amount of
04:33PM 14 \$2,000 a month, to make sure he would look out not only for
04:33PM 15 you, Masecchia, the guys you grew up with, but Ron Serio and
04:33PM 16 his group of distributors?

04:33PM 17 A. Yes.

04:33PM 18 Q. Did you tell Masecchia you think you could arrange that?

04:34PM 19 A. Yes.

04:34PM 20 Q. At that point, if Ron Serio wasn't protected, do you
04:34PM 21 believe the entire operation could potentially have been
04:34PM 22 exposed?

04:34PM 23 A. Yes.

04:34PM 24 Q. If Ron Serio wasn't protected, did you believe that the
04:34PM 25 entire group would have been vulnerable to law enforcement?

04:34PM 1 A. Yes.

04:34PM 2 Q. Did you discuss what your compensation would be with
04:34PM 3 Masecchia for helping distribute the marijuana in the manner
04:34PM 4 you've described your role with the outdoor grows as well as
04:35PM 5 arranging bribe payments from the -- to the defendant?

04:35PM 6 A. It was a percentage. It was a percentage of what the

04:35PM 7 outdoor grow would be. 15 to 20 percent, sometimes 25,

04:35PM 8 depending on what the yield was, so whatever the gross was, I
04:35PM 9 would get a percentage of that.

04:35PM 10 Q. What did you average per year in terms of actual profit?

04:35PM 11 A. Out there?

04:35PM 12 Q. What did you --

04:35PM 13 A. Me?

04:35PM 14 Q. What did you earn?

04:35PM 15 A. 15 to 20,000.

04:35PM 16 Q. In terms of the overall organization, was it your
04:35PM 17 understanding Ron Serio had more than just the outdoor grow
04:35PM 18 as an income stream into the organization?

04:35PM 19 A. Yes. Much more, yes.

04:35PM 20 Q. Was your profit based off of the outdoor plant grow?

04:35PM 21 A. It was.

04:36PM 22 Q. So not everything that Serio and Masecchia were involved
04:36PM 23 in?

04:36PM 24 A. No. Just the work that I put in, what I brought to the
04:36PM 25 table.

04:36PM 1 Q. When you first had this conversation with Masecchia, was
04:36PM 2 it shortly before that harvest season was about to commence
04:36PM 3 in '08?

04:36PM 4 A. Yes.

04:36PM 5 Q. I'll ask you about the negotiations with this defendant
04:36PM 6 in detail in a moment. But did this outdoor grow operation
04:36PM 7 you were involved in occur from 2008 all the way through
04:37PM 8 2017, the year Ron Serio got arrested ultimately?

04:37PM 9 A. Yes. 2008, 2009, that timeframe. Yes, that's when it
04:37PM 10 started.

04:37PM 11 Q. Moving forward?

04:37PM 12 A. Moving forward, yes.

04:37PM 13 Q. All the way to 2017?

04:37PM 14 A. Till '17, yes.

04:37PM 15 Q. Just in terms of the outdoor grow operation, how many --
04:37PM 16 at the two locations, how many plants per year, what was a
04:37PM 17 range of plants that were being harvested?

04:37PM 18 A. 40 to 50.

04:37PM 19 Q. At each site?

04:37PM 20 A. Yeah. I mean, gross was probably about, because you lose
04:37PM 21 some, there was a lot that died, that didn't make it. Either
04:37PM 22 moldy or what have you. So 70 to 80 is what you grossed.

04:38PM 23 Q. So 80 to a hundred plants total.

04:38PM 24 A. Yeah.

04:38PM 25 Q. And then 70 to 80 that were good enough to harvest -- to

04:38PM 1 grow buds?

04:38PM 2 A. Exactly, exactly, exactly.

04:38PM 3 Q. I want to ask you about the first time after you spoke
04:38PM 4 with Masecchia that you had a discussion with this defendant,
04:38PM 5 offering him the \$2,000 per month, okay?

04:38PM 6 A. Okay.

04:38PM 7 Q. Were you the one who ultimately negotiated the bribes
04:38PM 8 that were paid from Serio and Masecchia to this defendant?

04:38PM 9 A. Yes.

04:38PM 10 Q. Did this -- did that involve a process?

04:38PM 11 A. It did.

04:38PM 12 Q. Did it occur over time?

04:38PM 13 A. It did.

04:38PM 14 Q. How did you arrange the first meeting with the defendant
04:39PM 15 to discuss this issue?

04:39PM 16 A. Called him. I said I wanted to get together and talk
04:39PM 17 with him about something.

04:39PM 18 Q. And did he agree to meet you?

04:39PM 19 A. Yes.

04:39PM 20 Q. And do you -- did you meet somewhere?

04:39PM 21 A. Yes. I think it was a bar. It was a bar. Either
04:39PM 22 downtown or on Hertel, I don't recall.

04:39PM 23 Q. And describe, you and the defendant get to this bar. And
04:39PM 24 you broached the topic with him?

04:39PM 25 A. After a minute, we had a drink. And then I brought it

04:39PM 1 up.

04:39PM 2 Q. Describe the conversation from there.

04:39PM 3 A. Told him who was involved. Mike, Ron, and --

04:39PM 4 Q. Did you list all the other people we talked about in
04:39PM 5 terms of involvement, Tomasello, Martone, those people?

04:40PM 6 A. Not -- not at that point, but eventually.

04:40PM 7 Q. Okay. Please continue.

04:40PM 8 A. Just wanted to get his idea or get his feel on what they
04:40PM 9 had just asked me to propose, which was \$2,000 a month. And
04:40PM 10 he was reluctant at first.

04:40PM 11 Q. How did you pitch it to him. What did you say?

04:40PM 12 A. I said that they had asked me to come forward.

04:40PM 13 Q. Who is the "they" you're referring to?

04:40PM 14 A. Again, Mike and Ron, had asked me to reach out regarding
04:40PM 15 the operation that they have, and it's out in Cattaraugus and
04:40PM 16 Angelica. And it's expanding, and they wanted to know if
04:40PM 17 they could get information if something were to happen. And
04:40PM 18 they were willing to pay for that and he was reluctant. He
04:40PM 19 did not want to do that.

04:40PM 20 Q. At that point, did you explain to the defendant what type
04:40PM 21 of information they were looking for?

04:40PM 22 A. Yes, if there was an investigation, if somebody was
04:41PM 23 busted, informants, that type thing. Anything that can
04:41PM 24 infiltrate, ruin the operation.

04:41PM 25 Q. What did the defendant -- you said the defendant was

04:41PM 1 reluctant at first. What did he -- what do you remember him
04:41PM 2 saying?

04:41PM 3 A. He was mad. He said he could lose his career. He was
04:41PM 4 reluctant. He didn't want to do it.

04:41PM 5 Q. Did you explain what Ron Serio's role was?

04:41PM 6 A. Yes.

04:41PM 7 Q. What did you say?

04:41PM 8 A. I told him Ron was the top guy. He was the one who was
04:41PM 9 cashing everyone out and his -- he had other interests as
04:41PM 10 well. It was getting ready to expand.

04:41PM 11 Q. As the conversation progressed, did you explain to him
04:41PM 12 who else was involved?

04:41PM 13 A. Yes.

04:41PM 14 Q. Is that when you talked about Tomasello, Martone, and
04:42PM 15 some of those people?

04:42PM 16 A. The rest of the players, yes.

04:42PM 17 Q. Did you think if you mentioned more people that the
04:42PM 18 defendant knew, it would help the discussion?

04:42PM 19 A. Yes. He would realize that we're all guys from the
04:42PM 20 neighborhood, and you would know them and hopefully have a
04:42PM 21 level of confidence.

04:42PM 22 Q. As you continued to discuss it with him in this first
04:42PM 23 meeting, did the defendant indicate to you that he would have
04:42PM 24 your back?

04:42PM 25 A. Yes.

04:42PM 1 Q. How did you get to that point? Describe the flow of the
04:42PM 2 conversation where the defendant said he would have your back
04:42PM 3 even though he started off angry.

04:42PM 4 A. He didn't want to participate. I told him I was
04:42PM 5 involved. He says, I'll have your back if something were to
04:42PM 6 happen. I'd reach out to you, but at this point, he was not
04:42PM 7 all in. He did not want in.

04:43PM 8 Q. So he seemed reluctant?

04:43PM 9 A. He seemed reluctant.

04:43PM 10 Q. By having your back, though, did you understand that to
04:43PM 11 mean there would be protection provided?

04:43PM 12 A. Yeah. I would get tipped off if something were to happen
04:43PM 13 to me. Yes.

04:43PM 14 Q. And would you have told the others in the group?

04:43PM 15 A. Yes.

04:43PM 16 Q. The defendant didn't arrest you on the spot, did he?

04:43PM 17 A. No.

04:43PM 18 Q. Did you try to persuade him in that initial meeting
04:43PM 19 regarding his expenses?

04:43PM 20 A. I did.

04:43PM 21 Q. What did you say?

04:43PM 22 A. I says, there's \$2,000 a month could help. Right now you
04:43PM 23 have a lot of expenses. Paying child support. Your
04:44PM 24 maintenance. This could just be an offset and another source
04:44PM 25 of income to help with that.

04:44PM 1 Q. Did he indicate to you that this -- the conversation that
04:44PM 2 you and him -- he just had should remain between the two of
04:44PM 3 you?

04:44PM 4 A. Yes.

04:44PM 5 Q. How did you end and how did you leave that initial
04:44PM 6 conversation?

04:44PM 7 A. Told him to think about it. I'm going to reach back out
04:44PM 8 to Mike and Ron. But just think about it, and let's get
04:44PM 9 together again.

04:44PM 10 Q. So you wanted to follow up with Mike and Ron and then
04:44PM 11 circle back with the defendant?

04:44PM 12 A. Exactly. Yes.

04:44PM 13 **MR. TRIPI:** I can keep going five more minutes,
04:44PM 14 Judge. You wanted me to flag you. I'm going to another area,
04:44PM 15 that might not be a logical breaking point in the window that
04:45PM 16 you discussed?

04:45PM 17 **THE COURT:** You'd rather break now?

04:45PM 18 **MR. TRIPI:** Yeah.

04:45PM 19 **THE COURT:** Fine, great, terrific.

04:45PM 20 So folks we will now break for the day.

21 (Excerpt concluded at 4:45 p.m.)

22 * * * * *

23

24

25

1

2 **CERTIFICATE OF REPORTER**

3

4 In accordance with 28, U.S.C., 753(b), I
5 certify that these original notes are a true and correct
6 record of proceedings in the United States District Court for
7 the Western District of New York on August 27, 2024.

8

9

10 s/ Ann M. Sawyer
11 Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2 TRANSCRIPT INDEX3 EXCERPT - EXAMINATION OF LOUIS SELVA - DAY 14 AUGUST 27, 20245
6 W I T N E S S P A G E

7 LOUIS SELVA 2

8 DIRECT EXAMINATION BY MR. TRIPI: 2

9
10
11 E X H I B I T S P A G E

12 GOV Exhibit 215 8

13 GOV Exhibit 109AA 10

14 GOV Exhibit 143A-1 12

15 GOV Exhibit 222J 19

16
17
18
19
20
21
22
23
24
25